

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VALENA COLEMAN,

Defendant-Appellant.

UNPUBLISHED

January 31, 1997

No. 185850

Recorder's Court

LC No. 94-4325

Before: Hoekstra, P.J., and Marilyn Kelly and J.B. Sullivan,* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of using another person's financial transaction device without consent, MCL 750.157n(1); MSA 28.354(14)(1). Defendant was sentenced to serve three days in jail. Defendant appeals as of right, and we affirm.

Defendant argues that there was insufficient evidence that she was the person who made the charge on the account and that she had the requisite specific intent. We disagree. MCL 750.157n(1); MSA 28.354(14)(1) states that "[a] person . . . who knowingly retains, knowingly possesses, knowingly secretes, or knowingly uses a financial transaction device without the consent of the deviceholder, is guilty of a felony." This is a specific intent crime. *People v Ainsworth*, 197 Mich App 321, 325; 495 NW2d 177 (1992). The prosecution can establish a defendant's specific intent from the facts and circumstances. *People v Flowers*, 191 Mich App 169, 178; 477 NW2d 473 (1991).

In a challenge to the sufficiency of the evidence in a bench trial, we view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985). Here, defendant's claim that the prosecution could not establish her specific intent because the credit card number could have been incorrectly entered is factually infirm. Furthermore, defendant's intent and the other elements of the crime can be established through reasonable inferences from the facts. The parties stipulated that an unauthorized charge occurred. The

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

charge occurred during defendant's shift as cashier. The trier of fact could believe the Hemphills' testimony that although they had access to the charge machine, they did not use it because the cashier accepts all payments. Viewing this evidence in a light most favorable to the prosecution, a rational trier of fact could find beyond a reasonable doubt that defendant was the person who intentionally made the unauthorized charge.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Marilyn Kelly

/s/ Joseph B. Sullivan