

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL TATE,

Defendant-Appellant.

UNPUBLISHED

April 1, 1997

No. 182616

Recorder's Court

LC No. 94-003715

Before: Marilyn Kelly, P.J., and MacKenzie and J.R. Ernst,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of false pretenses over \$100, MCL 750.218; MSA 28.415. He was sentenced to five years' probation, with the first year to be served at the William Dickerson facility in the work release program. We affirm.

Defendant's only issue on appeal is that the trial court improperly denied his motion for a directed verdict, because the prosecution failed to present sufficient evidence in its case in chief that defendant made fraudulent representations. We disagree.

When reviewing the denial of a motion for a directed verdict, this Court must consider the evidence presented by the prosecution up to the time the motion was made in a light most favorable to the prosecution. We must determine whether a rational trier of fact could find that the essential elements of the charged crime were proven beyond a reasonable doubt. *People v McKenzie*, 206 Mich App 425, 428; 522 NW2d 661 (1994). The elements of the crime of obtaining money by false pretenses are 1) the defendant's false representation as to an existing fact; 2) his knowledge of the falsity of the representation; 3) his use of the representation with an intent to deceive; and 4) the victim's detrimental reliance on the representation. *In re People v Jory*, 443 Mich 403, 412; 505 NW2d 228 (1993). In this case, defendant challenges the sufficiency of the evidence only as to the first element.

The prosecution presented ample evidence that defendant made the false representation to Johnson that he was vice president of Primerica. Johnson stated several times during her testimony that

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

defendant had told her that he was vice president of Primerica. She told the trial court, in response to its direct questioning of her that, not only did defendant make the assertion to her, she would not have invested the \$10,000 had defendant not made it. Johnson also testified that she discovered that defendant was not affiliated at all with Primerica. Viewed in a light most favorable to the prosecution, sufficient evidence was produced to establish that defendant made the false representation to Johnson. The trial court did not err in denying defendant's motion for a directed verdict.

Affirmed.

/s/ Marilyn Kelly

/s/ Barbara B. MacKenzie

/s/ J. Richard Ernst