

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY MARK CALICUTT,

Defendant-Appellant.

UNPUBLISHED

June 20, 2006

No. 260061

Kalamazoo Circuit Court

LC No. 04-000200-FH

Before: Kelly, P.J., and Markey and Meter, JJ.

PER CURIAM.

Defendant was convicted by a jury of possession of counterfeit notes with intent to utter, MCL 750.252, and was sentenced as a fourth habitual offender, MCL 769.12, to two to fifteen years' imprisonment. He appeals by right. We affirm.

Defendant argues that there was insufficient evidence to show beyond a reasonable doubt that he intended to injure and defraud someone as contemplated by MCL 750.252. He argues that the statute does not afford protection to individuals engaged in illegal activities and that he merely intended to pass his counterfeit notes in connection with drug transaction. We disagree.

When reviewing sufficiency of the evidence claims, this Court views all evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found all of the elements of the offense to were proved beyond a reasonable doubt. *People v James*, 267 Mich App 675, 676-677; 705 NW2d 724 (2005).

MCL 750.252 provides:

Any person who shall have in his possession at the same time, 10 or more similar false, altered, forged or counterfeit notes, bills of credit, bank bills or notes of this state, or any of its political subdivisions or municipalities, payable to the bearer thereof, or to the order of any person, such as are mentioned in the preceding sections of this chapter, knowing the same to be false, altered, forged or counterfeit, with intent to utter the same as true, and thereby to injure and defraud as aforesaid, shall be guilty of a felony

Defendant's position is contrary to the plain language of MCL 750.252. Plain and unambiguous statutory language is enforced as written. *People v Barbee*, 470 Mich 283, 286;

681 NW2d 348 (2004). The statute requires that the defendant have the intent to utter counterfeit notes “as true, and thereby to injure and defraud.” Nowhere does the statute require that the defendant must have intended to defraud individuals engaged only in legitimate enterprises or otherwise distinguish between defrauding only those engaged in legal activity. To read into the statute an exception to criminal liability on the basis of the innocence of the person who is being defrauded would be to improperly read into the statute something that was not clearly manifested by the Legislature in the statute’s language. See *People v Cassadime*, 258 Mich App 395, 398-399; 671 NW2d 559 (2003) (holding that MCL 750.249, which forbids uttering and publishing as true any “false, forged, altered or counterfeit record, deed, instrument or other writing,” could not be restricted so as to prohibit only original counterfeits and create a loophole for copied counterfeits). There is sound reason to forbid use of counterfeit money even in illegal transactions. Specifically, such use might serve to place counterfeit money in circulation to be used in transactions with innocent parties.

Given that the plain and unambiguous language of MCL 750.252 makes no distinction between possession of counterfeit notes with intent to defraud persons engaged in legal activities from possession with intent to defraud persons engaged in illegal activities, we hold that the prosecution did not have to prove beyond a reasonable doubt that defendant intended to defraud individuals engaged in legal activities. Thus, the testimony regarding defendant’s admissions to police detectives that he knew of the counterfeit nature of the notes at issue and that he intended to utter them to a marijuana dealer was sufficient to support a finding beyond a reasonable doubt of the relevant element of the charged crime. Accordingly, there was sufficient evidence to support defendant’s conviction.

We affirm.

/s/ Kirsten Frank Kelly

/s/ Jane E. Markey

/s/ Patrick M. Meter