

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SANDRA GAIL ROCKWELL,

Defendant-Appellant.

UNPUBLISHED

October 19, 2010

No. 293369

Grand Traverse Circuit Court

LC No. 09-010762-FH

Before: MURRAY, P.J., and K.F. KELLY and DONOFRIO, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of uttering and publishing, MCL 750.249, but found not guilty of larceny in a building, MCL 750.360. Defendant was sentenced to one year of probation, with the first 75 days to be served in jail. Defendant appeals as a matter of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E).

The instant case arose when the victim's wallet, including her checkbook, was taken from an employee locker room in defendant's place of employment. A few hours later, defendant was seen on videotape passing a check from the victim's checkbook. Defendant argues that the verdicts were inconsistent, and urges that Michigan law be reformed to disallow inconsistent verdicts in criminal trials. Defendant concedes that this issue was unpreserved for appellate review. Accordingly, we review for a plain error that affects a substantial right. *People v Carines*, 460 Mich 750, 774; 597 NW2d 130 (1999). If a plain error is found, "[t]he reviewing court should reverse only when the defendant is actually innocent or the error seriously affected the fairness, integrity, or public reputation of judicial proceedings." *Id.*

Defendant argues that consistent with Maryland precedent, see *Price v Maryland*, 405 Md 10, 20; 949 A2d 619 (2008), Michigan law should be changed to prohibit the imposition of inconsistent verdicts in criminal trials. However, this Court is bound by case law established by the Michigan Supreme Court, *People v Tierney*, 266 Mich App 687, 713; 703 NW2d 204 (2005), and Michigan continues to adhere to the principle that jury verdicts rendered on several counts need not be consistent, *People v Vaughn*, 409 Mich 463, 465; 295 NW2d 354 (1980).

In any event, the two verdicts in the instant case are not inconsistent because there is an interpretation of the evidence that logically explains the jury's findings. *People v Tombs*, 472 Mich 446, 462-463; 697 NW2d 494 (2005). The jury's determination that defendant had passed the forged check does not necessitate the conclusion that she also took the wallet as defendant

could have obtained the contents of the victim's wallet in ways other than taking it from the locker room. The two incidents occurred hours apart in two separate locations. More importantly, there was no direct evidence that defendant took the wallet from the locker room, while there was video evidence showing her passing the check in issue. Consequently, defendant has failed to demonstrate that an error occurred, much less one affecting her substantial rights. *Carines*, 460 Mich at 774.

Affirmed.

/s/ Christopher M. Murray

/s/ Kirsten Frank Kelly

/s/ Pat M. Donofrio