

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT HARDEN,

Defendant-Appellant.

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UNPUBLISHED

April 26, 2005

No. 241671

Wayne Circuit Court

LC No. 01-009927-01

Before: Neff, P.J., and White and Talbot, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I concur in the affirmance of defendant's conviction of false pretenses. I respectfully dissent from the reversal of his convictions of using a false statement of identity to procure a financial transaction device.

Initially, I observe that while defendant makes an insufficiency/corpus delicti argument on appeal, that argument is directed to the element of intent to defraud, not the element of a writing. Further, at trial, defendant did not challenge the admission of his statement on the basis that the corpus delicti had not been established, and did not argue that there was insufficient evidence that defendant made a false statement in writing. While an insufficiency argument need not be preserved, this is not a true insufficiency case. The question here is whether the confession was properly admitted. If the confession is considered, the evidence is sufficient. Defendant admitted that he filled out applications for the credit cards in his possession using the name Robert Parks. This is sufficient to support a finding that defendant made a false statement in writing concerning his identity.

Had defendant made either a sufficiency or a corpus delicti argument at trial directed to the requirement that the false statement be in writing, the prosecution would no doubt have produced a copy of the applications defendant stated that he had filled out. I conclude that defendant failed to preserve, either on appeal or at trial, the issue the majority finds dispositive.

I would affirm.

/s/ Helene N. White