

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LOUISE EDWARDS,

Defendant-Appellee.

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UNPUBLISHED

March 30, 2006

No. 257295

Wayne Circuit Court

LC No. 03-500088

Before: Cooper, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Plaintiff appeals by leave granted from an order of the circuit court order affirming the district court's decision not to bind over defendant on the charge of uttering and publishing, MCL 750.249. We reverse and remand. This case is being decided without oral argument under MCR 7.214(E).

At the preliminary examination, Pecola Johnson testified that on May 31, 2003, defendant came into the bank at which Johnson worked as a teller and attempted to cash a check. Johnson testified that the check was drawn from the account of Leroy Craig and made out to defendant in the amount of \$800. Johnson stated that the word "roof" was written on the check's "remitter" line and that defendant had endorsed the back of the check. Johnson explained that the signature on the signature line of the check did not match Craig's signature, with which she was familiar. Johnson also testified that she contacted Craig, who indicated that he had not written the check and did not know defendant.

Defendant objected to plaintiff's request to bind her over on the uttering and publishing charge. Defendant argued that plaintiff had not established the element of knowledge.<sup>1</sup> Specifically, defendant argued that there was no evidence that she knew the check to be stolen or that she did not receive the check from someone holding himself out to be Craig. Plaintiff argued that evidence that Craig did not know defendant and never wrote out a check to defendant

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<sup>1</sup> "The elements of uttering and publishing are: (1) defendant's knowledge that the instrument was false, (2) an intent to defraud, and (3) presenting the forged instrument for payment." *People v Knowles*, 256 Mich App 53, 58; 662 NW2d 824 (2003).

was sufficient to bindover defendant on the crime charged. The district court denied the motion to bindover defendant on the uttering and publishing charge. On appeal, the circuit court affirmed the district court, noting its agreement “that the prosecutor has not presented sufficient evidence on all elements of uttering and publishing, specifically that the defendant knew the instrument was false.”

Plaintiff argues on appeal that the lower courts erred in refusing to bindover defendant on the crime charged. We agree. We review de novo the circuit court’s review of the bindover process to determine whether the trial court committed an abuse of discretion in determining whether there was probable cause to show that defendant committed the crime charged. *People v Tower*, 215 Mich App 318, 320; 544 NW2d 752 (1996). “Probable cause requires a reasonable belief that the evidence presented during the preliminary examination is consistent with the defendant’s guilt.” *People v Northey*, 231 Mich App 568, 575; 591 NW2d 227 (1998). Circumstantial evidence as well as reasonable inferences drawn from that evidence can be used to establish probable cause. *People v Brown*, 239 Mich App 735, 741; 610 NW2d 234 (2000). While the prosecution is not required to prove each element beyond a reasonable doubt, *id.*, it must provide some evidence on each element of the crime charged. *People v Hudson*, 241 Mich App 268, 278; 615 NW2d 784 (2000).

Evidence was presented that Craig had not written and signed the check and that he did not know defendant. The check also included a memo that can be reasonably interpreted to mean that payment was related somehow to a “roof.” Evidence was also presented that defendant had endorsed the check and presented it for payment. This evidence clearly establishes that the check was forged. Further, defendant’s possession and attempt to cash a forged check purportedly written for an identified purpose<sup>2</sup> by a person who did not know defendant supports the inference that defendant had knowledge that the check was a forgery. Knowingly presenting a forged instrument for payment is circumstantial evidence of the intent to defraud. Thus, evidence “sufficiently strong to warrant a cautious person to believe that the accused is guilty of the offense charged” was presented. *People v Carter*, 250 Mich App 510, 521; 655 NW2d 236 (2002). Speculation that defendant might have been duped by another, see *People v Haywood*, 27 Mich App 365, 366; 183 NW2d 299 (1970), does not render unreasonable the belief that defendant committed the crime charged. For these reasons, we find that the circuit court erred in affirming the district court because the district court abused its discretion in refusing to bindover defendant.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Kathleen Jansen

/s/ Jane E. Markey

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<sup>2</sup> The identification of a purpose for this forged instrument supports the inference that defendant had knowledge that it was false, i.e., details on an instrument shown to be false serve to undermine any theory that possession of the forgery was unknowing, given that the details were arguably placed there to support the appearance that the forgery was authentic.