

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WARREN BRYCE SANFORD,

Defendant-Appellant.

---

UNPUBLISHED

May 6, 2010

No. 288650

Oakland Circuit Court

LC No. 2006-210978-FH

Before: WHITBECK, P.J., and METER and FORT HOOD, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction of false certification of a driver's license application, MCL 257.903. Defendant was sentenced to 27 days in jail for his conviction. We affirm, but remand for correction of the judgment of sentence.

Defendant first argues that there is insufficient evidence to support his conviction because he was not the true applicant for the driver's license. He further argues that there was no proof that he was attempting to obtain the license for his own use when the information he provided on the application was accurate with regard to his brother, James Sanford (James). Therefore, defendant asserts that he did not make a false certification. We disagree.

A challenge to the sufficiency of evidence is reviewed by this Court de novo. *People v Cline*, 276 Mich App 634, 642; 741 NW2d 563 (2007). We must “view the evidence in a light most favorable to the prosecution and determine if any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *Id.*, quoting *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992).

When reviewing a sufficiency of the evidence claim, all conflicts in the evidence must be resolved in favor of the prosecution. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). It is solely the trier of fact's role to weigh the evidence and judge the credibility of witnesses. *Wolfe*, 440 Mich at 514-515. Therefore, “[i]t is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences.” *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

MCL 257.903(1) provides:

A person who makes a false certification to a matter or thing required by the terms of this act to be certified, including but not limited to an application for any type of driver license, dealer license, vehicle certificate of title, vehicle registration, vehicle inspection, self-insurance, personal information, or commercial driver training school, is guilty of a felony. A person who uses personal information for a purpose other than a permissible purpose identified in section 208c or 232 is guilty of a felony.

Criminal intent is normally an element of a crime. *People v Schumacher*, 276 Mich App 165, 168; 740 NW2d 534 (2007). Further, there is a presumption that, absent a clear indication that the Legislature intended to dispense with the mens rea requirement, silence on the issue suggests that it did not intend to eliminate the requirement. *Id.* at 172. Therefore, pursuant to the plain language of the statute, it is violated when a person makes a false certification on a driver's license application with the intent that the certification be false. Minimal circumstantial evidence is sufficient to prove the element of intent because of the difficulty of proving an actor's state of mind. *People v McGhee*, 268 Mich App 600, 623; 709 NW2d 595 (2005).

The evidence, viewed in the light most favorable to the prosecution, established that defendant applied for a driver's license using James's information and James's expired license as a proof of identity. Defendant signed the portion of the driver's license application that stated, "I certify under the penalty of perjury that I am a legal Michigan resident and the statements made on this application are true and that a court is not holding my license." When directed by the Secretary of State (SOS) clerk to be photographed for the license, defendant did not object. As a result, a license with James's information and defendant's photograph was issued. Defendant never informed the clerk that he was not James or that he was using his power of attorney to act on James's behalf. Defendant's own driver's license was indefinitely suspended at the time of his application, and when he was arrested for an unrelated crime the next day, defendant still had the Temporary Operator's Permit (TOP) issued for James in his possession.

Defendant's failure to inform the clerk that he was not James and his willingness to be photographed for the license, coupled with his possession of the TOP and the fact that his license was indefinitely suspended, constituted sufficient circumstantial evidence of defendant's intent to falsely certify the information on the driver's license application in order to obtain a license in James's name for his own use. Further, the trial court found defendant's credibility lacking, which is a determination left for the trier of fact. *Wolfe*, 440 Mich at 514-515. Therefore, a reasonable trier of fact could find beyond a reasonable doubt that defendant intentionally made a false application for a replacement driver's license.

Next, defendant argues that the trial court violated his due process rights by improperly shifting the burden of proof to him in its findings of fact. Defendant contends that because the trial court convicted him solely on the basis of credibility, this shifted the burden of proof. We disagree. Because this issue was not preserved, we review for plain error affecting substantial rights. *People v McLaughlin*, 258 Mich App 635, 645; 672 NW2d 860 (2003).

The Due Process Clause of the Fourteenth Amendment requires the prosecution in a criminal case to bear the burden of proving beyond a reasonable doubt the essential elements of the crime. *People v Mette*, 243 Mich App 318, 325-326; 621 NW2d 713 (2000). In actions tried without a jury, the trial court must find the facts and state separately its conclusions of law as to

contested matters. MCR 2.517(A)(1); MCR 6.403; *People v Feldmann*, 181 Mich App 523, 534; 449 NW2d 692 (1989). “Brief, definite, and pertinent findings and conclusions on the contested matters are sufficient, without over elaboration of detail or particularization of facts.” MCR 2.517(A)(2).

In finding defendant guilty of false certification, the trial court stated:

Okay. And this was a bench trial so you’re looking for the verdict from me. We tried this case—I think we started on August 25th of [2008], that’s what my notes show, and it wasn’t a very long trial so the testimony is pretty clear still since that time. And Mr. Sanford himself testified in this case. I have to find that Mr. Sanford was not credible in his testimony and the reason he was not is, in order for me to believe his testimony I would have to be very naïve myself and so would Mr. Sanford have to be naïve. His position as I understand it is that he didn’t understand that a power of attorney has to be announced to the Secretary of State, and you know, as far as it goes, you know, maybe you could believe that except for the fact that he had this power of attorney for years. It’s not like he just got it and he’s just trying to figure it out. And especially when they said now you can have your picture taken. I mean, anybody with half a brain can figure out that you better say something because it’s not really your license that you are renewing. So the credibility is everything in a case like this, so because I find Mr. Sanford not credible I find him guilty as charged.

A review of the trial court’s findings reveals that the trial court did not find defendant guilty solely because it did not find defendant credible. Rather, the trial court relied on defendant’s failure to inform the clerk at the SOS that he was acting under a power of attorney and that defendant posed for the license photograph also without telling the clerk that the license was not for him. Based on these facts, the trial court essentially found that that statute had been violated where the application for the driver’s license was premised on falsehoods. Despite the certification that the statements on the form were correct and that a license was not being held, defendant failed to notify the clerk of the true circumstances of the license renewal. These factual circumstances and the trial court’s conclusion did not improperly shift the burden of proof. The trial court merely weighed defendant’s credibility as part of its determination and did not require defendant to prove or disprove anything to establish his innocence.

Defendant also argues that the trial court violated MCR 6.403 by not mentioning the burden of proof. MCR 6.403 provides:

When trial by jury has been waived, the court with jurisdiction must proceed with the trial. The court must find the facts . . . state separately its conclusions of law, and direct entry of the appropriate judgment. The court must state its findings and conclusions on the record or in a written opinion made a part of the record.

Nothing in this court rule requires that the trial court specifically articulate the burden of proof. In addition, in a bench trial, the trial court is presumed to know the applicable law, *People v Lanzo Constr Co*, 272 Mich App 470, 484; 726 NW2d 746 (2006), and there is nothing in the record to demonstrate that the trial court did not know that the prosecution carried the burden to prove defendant’s guilt beyond a reasonable doubt.

Furthermore, contrary to defendant's argument, the trial court need not make specific findings of fact regarding each element of the crime as long as it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Wardlaw*, 190 Mich App 318, 320-321; 475 NW2d 387 (1991); *People v Vaughn*, 186 Mich App 376, 384; 465 NW2d 365 (1990). Here, based on the record, the trial court was aware of the issues in this case and correctly applied the law.

Lastly, defendant argues, and the prosecution agrees, that although the judgment of sentence and Presentence Investigation Report (PSIR) both include the proper statutory citation, the documents erroneously indicate that defendant was convicted of "False Application for Title," rather than false certification of a driver's license application. In light of the prosecutor's concession that the name of the offense should be corrected, we remand for the ministerial task of correcting the judgment of sentence. *People v Avant*, 235 Mich App 499, 521-522; 597 NW2d 864 (1999).

Affirmed, but remanded for correction of the judgment of sentence. We do not retain jurisdiction.

/s/ William C. Whitbeck

/s/ Patrick M. Meter

/s/ Karen M. Fort Hood