



Hudson v. State

1998 | Cited 0 times | Court of Appeals of Mississippi | April 21, 1998

LEON HUDSON, APPELLANT v. STATE OF MISSISSIPPI, APPELLEE

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

DATE OF JUDGMENT: 07/24/96

TRIAL JUDGE: HON. JOHN LESLIE HATCHER

COURT FROM WHICH APPEALED: COAHOMA COUNTY CIRCUIT COURT

NATURE OF THE CASE: CRIMINAL - FELONY

TRIAL COURT DISPOSITION: CT I & CT II UTTERING A FORGERY: EACH CT SENTENCED TO SERVE 10 YRS; CT I CONSECUTIVE ANY PREVIOUSLY IMPOSED; CT II CONCURRENT CT I; CT II CONSECUTIVE ANY PREVIOUSLY IMPOSED; PAY \$300.80 RESTITUTION TO VICTIM

DISPOSITION AFFIRMED - 4/21/98

Leon Hudson appeals his conviction on two counts of uttering a forgery. He claims that the trial court erred when it denied his motion for a judgment notwithstanding the verdict because there was a total failure of proof as to one of the essential elements of the crime. We disagree and affirm the conviction on both counts.

The proof was uncontradicted that Hudson persuaded a local grocery store to cash two checks made out to him that were drawn on an account at United Southern Bank styled "Fields Service Center." The former owner of Fields Service Center testified that he had, prior to the time the checks were presented, ceased doing business and had closed out the checking account in question. He testified that he had left the checkbook in a desk drawer at the location of his former business. He further testified that, after closing his business, he had rented the premises to Bennie Houston, who operated a car wash business at the site. Fields identified the checks as being two of those left behind when he vacated the premises. He denied signing the checks or authorizing anyone else to sign the checks on his behalf.



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Houston testified that Hudson had been an employee in the car wash for a brief period of time and that Hudson had access during the work day to the office where the checkbook had been left. Houston testified that, although the office was not locked, he did not use the office as a part of his car wash operation during that period because the office remained littered with papers and records left behind by Fields. Houston denied even knowing that the checkbook was on the premises. Houston testified that, in the operation of his car wash business, he charged \$10 to wash a car and paid \$4 of that to the person who actually did the wash job. He said that he paid all his employees, including Hudson, strictly in cash and had never paid his workers by check.

Hudson elected to testify in his own defense. He denied any knowledge that the maker's signature on the two checks had been forged and claimed that Houston had given him the checks as payment for labor performed at the car wash.

On this conflicting evidence, the jury returned a verdict of guilty on both counts. Hudson filed a JNOV motion, which was denied by the trial court. This appeal ensued.

Hudson limits his argument that the evidence was insufficient to convict to one essential element of the crime. He claims that the State presented no evidence that he negotiated the checks at the local grocery store "knowing such instrument... to be forged, altered, or counterfeited...." Miss. Code Ann. § 97-21-59 (Rev. 1994). He quotes the case of *Keyes v. State* where, in another uttering of a forgery case, the supreme court found the State's proof of guilty knowledge lacking and said that "Keyes has given a fair and natural explanation of his possession, which is entirely consistent with his want of guilty knowledge." *Keyes v. State*, 166 Miss. 316, 321, 148 So. 361, 362 (1933). Hudson then suggests that his claim that Houston gave him the checks in payment for labor meets the *Keyes* test as a credible explanation of his conduct that demonstrates unequivocally his lack of knowledge of any act of forgery. The fundamental error with this argument is that, in the case now before us, Houston testified that he had always paid Hudson in cash and had never paid by check. The jury is charged with assessing the credibility of the witnesses who testify at trial and resolving any disputes in the testimony. *Wash v. State*, 521 So. 2d 890, 896 (Miss. 1988). Assuming that the jury elected to believe Houston's testimony that he always paid Hudson in cash and rejected Hudson's own self-serving testimony, Hudson's "explanation" of how he came into possession of these checks becomes anything but a "fair and natural explanation... consistent with his want of guilty knowledge." *Keyes v. State*, 148 So. at 362.

In a matter so subjective as what actual knowledge an individual possessed at a particular time, direct proof is often lacking. Nevertheless, the jury is entitled to draw reasonable inferences from the evidence in aid of its job to unravel that issue. *Wash*, 521 So. 2d at 896. In this case, the proof showed that (a) Hudson had access to the checks for the closed-out account, (b) the instruments were, in fact, forgeries, (c) there was no plausible explanation as to why Hudson would be in possession of these checks, and (d) Hudson attempted to shift the blame for the forgery to his former employer through an explanation that was implausible on its face and directly denied at trial by the former employer.



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When this evidence is considered in its totality, we conclude that it was sufficient to permit the jury to reasonably infer that Hudson knew at the time he presented the checks to the grocery store that the signature of the maker was forged. The jury appears to have drawn such a Conclusion as evidenced by its verdict, and this Court is unconvinced by Hudson's argument that those verdicts of guilt are not supported by competent evidence on each of the vital elements of the charged crime.

We, therefore, determine that the verdicts and ensuing judgment of sentence must be affirmed.

THE JUDGMENT OF THE CIRCUIT COURT OF COAHOMA COUNTY OF CONVICTION OF COUNT ONE UTTERING A FORGERY AND COUNT TWO UTTERING A FORGERY AND SENTENCE OF TEN YEARS ON EACH COUNT IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS WITH THE SENTENCE IN COUNT ONE TO RUN CONSECUTIVE TO ANY AND ALL SENTENCES PREVIOUSLY IMPOSED AND SENTENCE IN COUNT TWO TO RUN CONCURRENT WITH THE SENTENCE IN COUNT ONE BUT CONSECUTIVE TO ANY PREVIOUSLY IMPOSED SENTENCE AND ORDER TO PAY \$300.80 RESTITUTION IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO COAHOMA COUNTY.

BRIDGES, C.J., THOMAS, P.J., COLEMAN, DIAZ, HERRING, HINKEBEIN, KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.

