



Eric Carnell appeals his convictions of forgery, a Class C felony,<sup>1</sup> and attempted theft, a Class D felony.<sup>2</sup> He contends the evidence was insufficient to support his convictions. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On December 27, 2006, John A. Duckett was working at Doc's Liquors in Indianapolis. Carnell came into the store and attempted to cash a payroll check bearing his name. Carnell presented his identification and placed his thumbprint on the back of the check. The check indicated it was drawn at National City Bank from a business account belonging to Eagle Valley Meadows.

Duckett, believing something was amiss, contacted Eagle Valley Farms<sup>3</sup> by telephone and asked Terry Addison, an employee of Eagle Valley, whether it had an employee named Eric Carnell. Addison stated that it did not. Duckett called 911, but before the police arrived Carnell left the liquor store, leaving the check and his identification.

On January 11, 2007, Detective Daniel Cherry of the Indianapolis Metropolitan Police Department contacted Anna Patterson, a fraud investigator at National City Bank, to determine whether the account number on the check was valid. Detective Cherry submitted the check for analysis to confirm the fingerprint on the back belonged to Carnell. Detective Cherry found the zip code for Eagle Valley listed on the check was

---

<sup>1</sup> Ind. Code § 35-43-5-2.

<sup>2</sup> Ind. Code §§ 35-43-4-2, 35-41-5-1.

<sup>3</sup> Duckett apparently could not find a business named "Eagle Valley Meadows" in the telephone book and instead contacted "Eagle Valley Farms."

invalid, as was the account number. The State charged Carnell with forgery and attempted theft.

A bench trial was held March 13, 2008. Carnell testified he was cashing the check for a neighbor, Wayne Tindall, because Tindall told him he did not have identification to cash the check and wanted the check made out to Carnell so he could cash it. He testified he and Tindall first took the check to a Kroger store, where he endorsed the check and placed his thumbprint on it, but ultimately was informed the check was not good. He and Tindall then took the check to the liquor store, where Duckett told Carnell to leave after taking his identification and the check. Carnell testified he did not know the check was fraudulent.

### **DISCUSSION AND DECISION**

When reviewing a claim the evidence was insufficient to support a conviction, we neither reweigh the evidence nor judge the credibility of witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict. *Id.* We will affirm a conviction if the probative evidence and reasonable inferences drawn from the evidence could allow a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id.*

Carnell contends the State did not prove he had the intent to defraud required by Ind. Code § 35-43-5-2(b), because the State failed to prove he knew the “check was not a valid document made out to him.” (Appellant’s Br. at 14.)

“To sustain a conviction of uttering a forged instrument it is, of course, immaterial whether the defendant wrote the check or had knowledge of who wrote it.” *Hopper v.*

*State*, 161 Ind. App. 29, 39, 314 N.E.2d 98, 104 (1974). Knowledge of the forgery does not have to be proven under Ind. Code § 35-43-5-2. *Whitacre v. State*, 274 Ind. 554, 559, 412 N.E.2d 1202, 1206 (1980). “The element of intent may be proven by circumstantial evidence alone, and it is well-established that knowledge and intent may be inferred from the facts and circumstances of each case. The State is not required to prove intent by direct and positive evidence.” *Scott v. State*, 867 N.E.2d 690, 695 (Ind. Ct. App. 2007) (quoting *Lykins v. State*, 726 N.E.2d 1265, 1270-71 (Ind. Ct. App. 2000)), *trans. denied*, 878 N.E.2d 211 (Ind. 2007). Circumstantial evidence “will often include the general conduct of the defendant when presenting the instrument for acceptance.” *Miller v. State*, 693 N.E.2d 602, 604 (Ind. Ct. App. 1998) (quoting *Wendling v. State*, 465 N.E.2d 169, 170 (Ind. 1984)).

There was ample evidence to convict Carnell of forgery and attempted theft. The payroll check for \$490.89 purported to be issued from Eagle Valley Meadows, was drawn from an account at National City Bank, and was made payable to Carnell. The account number was invalid, and no business named Eagle Valley Meadows was listed in the telephone book. Rather there is only an Eagle Valley Farms. Terry Addison of Eagle Valley Farms testified that Carnell did not work there. When the clerk at the liquor store told Carnell he had called 911, Carnell left without taking his state-issued identification card or the check with his fingerprint and endorsement thereon. Flight and related conduct may be considered by a trier of fact in determining the guilt of a defendant. *Dill v. State*, 741 N.E.2d 1230, 1232 (Ind. 2001).

Carnell asserted at trial that he was merely helping his neighbor by cashing the check and did not know that the check was forged. “The trier of fact is entitled to determine which version of the incident to credit.” *Scott*, 867 N.E.2d at 695 (quoting *Reyburn v. State*, 737 N.E.2d 1169, 1171 (Ind. Ct. App. 2000)). A trier of fact could infer from the evidence that Carnell knew the check was invalid and had intent to defraud. As such, we cannot say the evidence was insufficient.

Affirmed.

FRIEDLANDER, J., and BRADFORD, J., concur.