



IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)		
Plaintiff-Appellee,	)	Filed November 30, 1987	405
vs.	)		
NOE JIMINEZ SANCHEZ,	)	<u>7-323</u>	
Defendant-Appellant.	)	86-1087	

Appeal from the Iowa District Court for Dickinson County (No. 4911),
Murray S. Underwood, Judge.

The defendant appeals from his conviction, following a jury trial, for the crimes of fraudulent practice in the first degree, a class C felony, and two counts of fraudulent practice in the second degree, a class D felony, for his obtaining of ADC, Title XIX, and food stamp benefits. **AFFIRMED.**

Charles L. Harrington, Appellate Defender, and Michael J. Laughlin, Assistant Appellate Defender, for the defendant-appellant.

Thomas J. Miller, Attorney General; Bruce Kempkes, Assistant Attorney General; and John L. Sandy, Dickinson County Attorney, for plaintiff-appellee.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ.

DONIELSON, P.J.

The defendant appeals from his conviction, following a jury trial, for the crimes of fraudulent practice in the first degree, a class C felony, and two counts of fraudulent practice in the second degree, a class D felony, for his obtaining of ADC, Title XIX, and food stamp benefits. Defendant contends there was insufficient evidence to establish any intent to defraud on his part in that he was unaware of his wife's receiving workers' compensation benefits when he applied for the benefits in question. We affirm.

The defendant, Noe Jiminez Sanchez, appeals from his conviction for the crimes of fraudulent practice in the first degree and two counts of fraudulent practice in the second degree. At trial it was established that defendant's wife, Leanna Sanchez, had been continuously receiving workers' compensation benefits totalling almost \$88,000 from March 1975 until at least 1984. However, when the defendant applied for welfare benefits in February 1982, he did not indicate that his wife was receiving said payments nor did he subsequently inform the appropriate agencies of these payments.

Defendant contended at trial, however, that he was unaware of his wife's workers' compensation benefits when he applied for and received the benefits at issue. His wife testified that she deliberately misled him about her benefits and tried to conceal her receipt of such benefits from him. In addition, she stated that she forged her husband's name on some public assistance documents and, in general, handled all financial matters herself. Although Mrs. Sanchez pled guilty to committing fraudulent practices, she stated that her husband was innocent.

Upon conclusion of the trial, the defendant moved for judgment of acquittal that was rejected by the district court. The defendant appeals, arguing there was insufficient evidence of his intent to defraud.

Our scope of review is for the correction of errors at law. Iowa R. App. P. 4.

Defendant claims on appeal there was insufficient evidence presented by the State for the jury to conclude the defendant was guilty of fraudulently obtaining ADC benefits, Title XIX benefits, and food stamps from the State of Iowa. When considering a challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and we consider all evidence and inferences that may be drawn from it. State v. Freeman, 404 N.W.2d 188, 191 (Iowa App. 1987). If there is substantial evidence for the verdict in the record, the jury verdict is conclusive. State v. Robinson, 288 N.W.2d 337, 338 (Iowa 1980). Substantial evidence means evidence that would convince a rational trier of fact that the defendant is guilty of the crime charged beyond a reasonable doubt. State v. Blair, 347 N.W.2d 416, 419 (Iowa 1984).

Defendant maintains that had he known of his wife's receiving her disability benefits, he would have reported them as income. Examining the evidence in a light most favorable to the State, we find the evidence in this case is sufficient to support an inference that defendant knew of his wife's receiving benefits and hence was guilty of intent to defraud, an element of the crimes with which he was charged.

Both the State and defendant presented evidence to support their positions. Credibility of witnesses was thus put into issue. It has long been recognized that the determination of the credibility of witnesses and the weight to be given their testimony is specifically within the province of the trier of fact. Knight v. Anderson, 292 N.W.2d 411, 415 (Iowa 1980). The trier of fact is not bound to accept testimony as true, even where such testimony is uncontroverted. In Interest of G.R., 348 N.W.2d 627, 632 (Iowa 1984).

The jury was not bound to accept as true the defendant's evidence that his wife had misled him. In addition, the jury had seven pieces of evidence which tended to cast doubt on defendant's innocence: (1) defendant had pleaded guilty for abusing a neighboring state's welfare system; (2) defendant had failed to comply with the rules entitling his family to welfare by refusing to participate in any agency-sponsored work program; (3) defendant had failed to report other income received on welfare forms; (4) an agency employee testified that in mid-1984 the defendant "was knowledgeable about how often" his wife received her disability benefits and "he talked about what day of the week they normally came on"; (5) when asked by that employee, in mid-1984, why he had failed to report his wife's disability benefits, the defendant responded, "I think you know that I'm not naive enough to answer that"; (6) a supervisor at the insurance agency sending the disability benefits to the defendant's wife testified that during the trial, outside the jury's presence, the defendant blurted out those benefits "were always late and sometimes two and three weeks late"; and (7) the logistics seem to defy the defendant's claim of innocence of receiving \$88,000 in disability benefits over a ten-year period.

We find there was substantial evidence indicating defendant knew his wife received disability benefits during the period he received welfare benefits and hence was guilty of the offenses charged against him. Accordingly, we affirm the judgment of the district court.

AFFIRMED.