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IOWA SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA)

Plaintiff-Appellee,)

vs.) Filed January 30, 1981

JOYCE ROBY,) 0-285
63573

Defendant-Appellant.

Appeal from Black Hawk District Court-Forest E. Eastman, Judge.

Defendant appeals from her conviction of false pretenses in obtaining ADC payments. AFFIRMED.

Alvin R. Davidson, Assistant Public Defender, Waterloo, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Shirley A. Steffe, Assistant Attorney General of Iowa, for plaintiff-appellee.

Heard by Oxberger,C.J., and Donielson, Snell, Carter, and Johnson,JJ.

PER CURIAM

Defendant, Joyce Roby, appeals from her conviction of false pretenses in violation of section 713.1, The Code 1977, alleging that not all the elements of a section 713.1 violation have been established beyond a reasonable doubt. We affirm.

During 1975, 1976, and 1977 defendant was a recipient of aid to dependent children benefits from the Black Hawk County Department of Social Services. During this time period defendant semi-annually filled out applications for benefits, and in the applications defendant falsely stated that her husband Clyde Roby did not live with her, that she did not have a checking or savings account, and that no other person made defendant's house payments on her behalf. The State alleges that defendant made these three statements with knowledge of their falsehood and that through them defendant intentionally and successfully induced the Black Hawk County Department of Social Services to make payments to defendant that it otherwise would not have made. A jury convicted defendant of obtaining money by false pretenses in violation of section 713.1, The Code 1977. The trial court sentenced defendant to a term of incarceration not to exceed seven years and then suspended the sentence subject to certain conditions.

Defendant contends that the State failed to prove beyond a reasonable doubt all the elements necessary for conviction under section 713.1. In deciding whether there is sufficient evidence to support a conviction, we view all evidence on the record in the light most favorable to the State. State v. Robinson, 288 N.W.2d 337, 338, 340 (Iowa 1980). If there is substantial support for the verdict in the record, the jury verdict is conclusive. Id. at 338. Substantial evidence is such evidence as could convince a rational trier of fact that defendant is guilty beyond a reasonable doubt. Id. at 339.

> [T]his inquiry does not require a court to "ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt." Instead the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

Id. at 339. (Emphasis in original.)

The Iowa Supreme Court has listed the elements whose presence must be proved in order to convict a defendant of a section 713.1 violation:

> (1) the intent to defraud some particular person or people generally; (2) the false pretenses or representations regarding a past or existing material fact; (3) knowledge of the accused of the falsity of his represent-

> ations at the time he made them; (4) the accomplishment of the intended fraud by employment of such false pretenses; (5) and reliance by the victim upon the false representations in parting with money or other property.

State v Warren, 212 N.W.2d 509, 513 (Iowa 1974). The State has the burden of proving all elements of a crime charged beyond a reasonable doubt. State v King, 256 N.W.2d 1, 10 (Iowa 1977).

Defendant falsely stated on ADC applications that her husband, Clyde Roby, did not live with her. This falsehood, however, cannot be the basis of a section 713.1 violation, because the State has not met its burden of proving that the Department of Social Services relied on the falsehood in parting with ADC benefits. Jennifer Lett, a quality control reviewer for the Department of Social Services, testified that there are several situations in which a family could qualify for ADC funds even if the husband is living in the home with the rest of the family. The State has failed to present evidence that under the rules and regulations followed by the Department of Social Services defendant would have been ineligible for ADC benefits or eligible for reduced benefits had she stated on the ADC applications that her husband lived with her.

Defendant falsely stated on ADC applications that she did not have a checking or savings account. Defendant maintained a savings account from June 2, 1976 until February 22, 1977. From February 13, 1976 through December 23, 1976 defendant and Clyde Roby maintained a joint checking account. Defendant and Clyde also maintained a joint savings account from February 17, 1976 through September 30, 1976. Defendant's false statements concerning her bank accounts, however, cannot be the basis of a section 713.1 violation, because the state has not met its burden of proving that the Department of Social Services relied on them in parting with ADC benefits. Jennifer Lett testified that a family of defendant's size may have resources, including amounts in bank accounts, of up to $1600 and still be eligible for ADC benefits. Defendant never had more than $202 at any one time in her individually held savings account. There is no evidence that defendant ever had more than $237 at any one time in the jointly held checking account. There is no evidence that defendant ever had more than $36 at any one time in the jointly held savings account.

Jennifer Lett testified that in assessing whether the amounts in bank accounts put a family within or above the $1600 resources ceiling of eligibility, the Department of Social Services examines the amounts in a family's accounts as of one point in time— as

of the time of review of the ADC application. The sum of $202, $237, and $36 is $475, which represents the highest figure defendant possibly could have had in her accounts at any one time, and which is substantially less than the $1600 plus figure that would disqualify her from receiving ADC benefits. The State has failed to present evidence that under the rules and regulations followed by the Department of Social Services defendant would have been ineligible for ADC benefits or eligible for reduced benefits had she not falsely stated that she held no checking or savings account.

Defendant falsely stated on ADC applications that no other person made house payments on her behalf. In fact, Clyde Roby made five or six house payments on her behalf between 1975 and 1977. Defendant and Clyde were jointly liable for the house payment. Defendant knew when the payment was due and usually paid it herself. Clyde testified that on certain occasions one of the contract vendors would contact him concerning defendant's being behind in the house payments and that when this occurred Clyde would "see that I get some money in or try to catch it up or check with Joyce and find out what the problem was."

Jennifer Lett, was quality control reviewer for the Department of Social Services, testified that an ADC recipient's benefits are reduced if another party makes rent payments on his behalf. From our review of the evidence we conclude that reasonable trier of fact could find beyond a reasonable doubt that at the time of filling out the ADC applications defendant knowingly and falsely made statements regarding her house payments and thereby intentionally and successfully induced the Department of Social Services to make higher payments to her than it otherwise would have made. We affirm the conviction on this charge.

AFFIRMED.