

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 1317 – 2010
	:	
vs.	:	CRIMINAL DIVISION
	:	
CATHERIN (DETWILER) HUFF,	:	
Defendant	:	Post-Sentence Motions

**OPINION AND ORDER**

Following a jury trial on August 4, 2011, Defendant was found guilty of theft by deception, a misdemeanor of the first degree. 18 Pa.C.S. Section 3922(a)(3). On October 13, 2011, the Court sentenced Defendant to a term of imprisonment of one to five years in a State Correctional Institution, with eligibility for the Recidivism Risk Reduction Incentive. On October 24, 2011, Defendant filed the instant Post-Sentence Motion, in which she raises two issues.<sup>1</sup> In her motion for judgment of acquittal, she argues that the Commonwealth did not present sufficient evidence to sustain the conviction. In her motion for a New Trial, she contends the guilty verdict was against the weight of the evidence.

Since Defendant has focused on sufficiency and weight of the evidence, the Court will summarize the evidence presented to the jury, which centers around the allegation that on May 25, 2010, Defendant presented to her landlord, James Hepler, a counterfeit postal money order as payment for back rent.

James Hepler testified that he had a lease with Defendant for a second and third floor apartment with a rental payment of \$500.00 per month. The lease also included a provision for a late fee of 10% of the rent.<sup>2</sup> Rent was due on the 15<sup>th</sup> day of each month. Another female, a Ms. Jobst, shared the lease with

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<sup>1</sup> Defendant's Motion for Bail Pending Appeal was addressed by Order dated November 21, 2011.

<sup>2</sup> See Commonwealth Exhibit 1.

Defendant. Subsequently, the landlord allowed Defendant's boyfriend, Timothy Huff, to move into the apartment with an agreement that an extra \$50.00 per month would be paid for rent.

Mr. Hepler testified that Defendant failed to pay her rent on May 15, 2010. Ultimately, when the late fee kicked in, Defendant owed him \$600.00 by May 25, 2010. On that day, Defendant called him and told him she had two money orders from her brother, and she asked him to meet her at the bank for payment. Mr. Hepler testified that he then met her at Woodlands Bank.

Mr. Hepler testified that when he saw the money orders, which were United States Postal money orders issued to Catherin Detwiler from a Gary William, he was hesitant to take them. Defendant again told Mr. Hepler that Gary William was her brother. She told him that she had attended a convention in Wisconsin where she obtained the money orders. Inside the bank, the parties talked to a Brian Brooking who looked at the money orders and thought they looked okay. The banker told them he could deposit the money orders in Mr. Hepler's account and when the money cleared it would be credited to Mr. Hepler's account. Mr. Hepler testified that he accepted one of the money orders, which was in the amount of \$950.00. Since Defendant owed \$600.00 for rent, he gave Defendant \$350.00 back in cash.

Mr. Hepler testified that subsequently he received a letter from Woodlands Bank<sup>3</sup> informing him that the money order provided by Defendant was counterfeit, and that they were debiting \$950.00 from his account, plus a \$5.00 service fee. The debiting of Mr. Hepler's account caused four of his checks to bounce for insufficient funds.

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<sup>3</sup> See Commonwealth Exhibit 2, page 1.

Mr. Hepler then made efforts to contact Defendant about the fraudulent money order, and eventually met with Defendant on June 3, 2010, outside of the apartment complex. He informed Defendant that the money order which she had given him was counterfeit. He gave her a written eviction notice, and stressed to Defendant that she needed to take care of the matter because of the financial problems the money order created for him.

Mr. Hepler testified that Tim Huff, Defendant's boyfriend, told him that Mr. Huff's mother was travelling in from Florida and that she was going to give him \$1000.00 to take care of the matter. Mr. Hepler said he stressed that he needed the payment by June 5, 2010. When the money was not paid by June 5, Mr. Hepler made several phone calls to Defendant. When he reached Defendant, she told him that Tim's parents wouldn't help out. She told him that she sold Avon products and that she was expecting a big Avon check. By the end of June Defendant had not paid any of the money to Mr. Hepler and she vacated the apartment. Mr. Hepler then filed a complaint with the Williamsport Police. As of the date of trial, Mr. Hepler had not been paid by Defendant.

David Fortin of the Woodlands Bank testified. He confirmed that the bank sent the letter to Mr. Hepler,<sup>4</sup> and that the amount of the money order was charged to Mr. Hepler's account. Mr. Fortin testified that the money order was stamped by the United States Postal Service as counterfeit.

The Commonwealth also presented the testimony of Michael C. Bond, a United States Postal Inspector who investigated the subject money order. Mr. Bond tracked the serial number of the money order and confirmed it was counterfeit. He noted that there was an original money order with this same serial

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<sup>4</sup> See Commonwealth Exhibit 2, page 1.

number in the amount of \$50.00 issued February 12, 2010, from a Post Office in Rochester, New York,<sup>5</sup> which was cashed on February 18, 2010.

The Commonwealth then called Dr. Gary Williams as a witness.<sup>6</sup> Gary Williams is a physician who lives in Madison, Wisconsin and teaches at the University of Wisconsin. He testified that he does not know Defendant, he did not write the money order in question and never wrote a money order to Defendant. He acknowledged that the address listed on the counterfeit money order<sup>7</sup> was his correct address.

Dr. Williams also testified that he did receive three money orders from Ohio and San Diego, California, and a check from Delaware. He testified that he was bewildered when he got these things as he had no idea why they were sent to him. He contacted the party in Delaware who sent the check and confirmed it was in error. He then turned all these things over to the police in Madison, Wisconsin.

The Commonwealth showed to Dr. Williams their Commonwealth Exhibits 7 and 8. Dr. Williams explained that Commonwealth Exhibit 7 was a money order he received from a Ms. LaDuke in San Diego, California, along with a package containing a Hummel figurine and a note stating that he had overpaid. According to the note, the money order was to compensate him for the overpayment. Dr. Williams said he had never ordered the Hummel figurine and didn't know Ms. LaDuke. He suspected fraud was involved so he didn't cash the money order. Commonwealth Exhibit 8 was a second money order sent to him

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<sup>5</sup> See Commonwealth Exhibit 5.

<sup>6</sup> Apparently, the author of the counterfeit money order forgot to add an "s" to Dr. Williams' name. As noted above, the money order listed the sender as "Gary William".

<sup>7</sup> See Commonwealth Exhibit 2, page 2.

by Ms. LaDuke. Dr. Williams returned the Hummel figurine to Ms. LaDuke and returned the money orders to the United States Postal Service. Dr. Williams testified that he also received a number of Federal Express bills for money orders for which he was listed as sender, for various cities around the United States.<sup>8</sup>

The defense presented one witness at trial, Timothy Huff, who is now married to Defendant. As established by Mr. Hepler, Mr. Huff resided with Defendant in Mr. Hepler's apartment. According to Mr. Huff, while living in the apartment Defendant sold Avon products, both locally and on line, and he would help her by collecting money and delivering products. Mr. Huff testified that in May 2010 Federal Express delivered a package to the apartment containing the postal money order involved in this case.<sup>9</sup> Mr. Huff verified that the money order was taken to Mr. Hepler's bank. Mr. Huff testified that he assumed the money order was in payment for an Avon order, and he thought Gary Williams had ordered an Avon product. He acknowledged that when he and Defendant met with Mr. Hepler on June 3, 2010, they were told the money order was counterfeit. When asked if Defendant had told Mr. Hepler that the money order was payment for an Avon product, Mr. Huff testified that he was "not real sure of that."

Finally, the Commonwealth and the defense stipulated that subpoenas sent by the defense to Avon were not answered.

In addressing a challenge to the sufficiency of the evidence, the court is to view all of the evidence admitted at trial in the light most favorable to the Commonwealth as verdict winner, and the verdict will be upheld if there is sufficient evidence to enable the fact-finder to find every element of the crimes

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<sup>8</sup> See Commonwealth Exhibit 8.

<sup>9</sup> See Commonwealth Exhibit 2, page 2.

charged beyond a reasonable doubt. Commonwealth v. Adams, 882 A.2d 496 (Pa Super. 2005). A “weight of the evidence” claim contends the verdict is a product of speculation or conjecture, but requires a new trial only when the verdict is so contrary to the evidence as to shock one’s sense of justice. Commonwealth v. Dougherty, 679 A.2d 779 (Pa. Super. 1996). In the instant case, the Court believes the evidence was sufficient to support the jury’s verdict, and the verdict did not shock the court’s sense of justice.

Defendant’s claim of insufficient evidence is based on her contention the Commonwealth failed to show that she knew the money order was counterfeit. She argues that the evidence showed she did not create the money order, and since she did not create it, she could not have known it was counterfeit. The court believes one does not necessarily follow the other, however, and that there was sufficient evidence for the jury to have found that Defendant *did* know the money order was counterfeit even if she did not herself create it. First, Defendant told her landlord the money order was from her brother and that she got it when attending a convention in Wisconsin. The Commonwealth established that such was untrue; indeed, Defendant’s own witness, her husband, testified that the money order arrived in a package delivered by Federal Express, and such is consistent with the testimony of Gary Williams that he received Federal Express bills for money orders. Further, Defendant’s husband testified that he believed the money order to be from an Avon customer, but Gary Williams testified he did not buy any Avon products from Defendant. In addition, the money order was not sent to Avon by Defendant, but instead was given to her landlord. The fact that Defendant kept the \$350 cash given to her by Mr. Hepler is consistent with money order fraud and the fact that she never paid him back is not consistent with

innocence. All of these factors support the jury's conclusion that Defendant knew the money order was counterfeit and that she was guilty of theft by deception.

With respect to the "weight of the evidence" claim, while the court admits the testimony does leave room for speculation, such speculation arises only as to the details of the money order scam that must have been operating around the country. Considering the evidence of Defendant's lies and her failure to reimburse Mr. Hepler once informed of the problem, the court believes Defendant's participation in the scam was proven beyond a reasonable doubt and the verdict was hardly "shocking".

**ORDER**

AND NOW, this 20<sup>th</sup> day of January 2012, for the foregoing reasons, Defendant's Post-Sentence Motion is hereby DENIED.

Pursuant to Pennsylvania Rule of Criminal Procedure 720(B)(4)(a), Defendant is hereby notified of the following: (a) the right to appeal this Order within thirty (30) days of the date of this Order to the Pennsylvania Superior Court; "(b) the right to assistance of counsel in the preparation of the appeal; (c) the rights, if the defendant is indigent, to appeal in forma pauperis and to proceed with assigned counsel as provided in Rule 122; and (d) the qualified right to bail under Rule 521(B)."

BY THE COURT,

cc: DA  
PD  
Gary Weber, Esq.  
Hon. Kenneth D. Brown

Kenneth D. Brown, Senior Judge