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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE OF THE STATE
OF CALIFORNIA,

Plaintiff and Respondent,

v.

CHETERA DANIELS,

Defendant and Appellant.

B276282

(Los Angeles County
Super. Ct. No. BA426373)

APPEAL from a judgment of the Superior Court of Los Angeles County. Richard S. Kemalyan, Judge. Affirmed.

Frank Duncan for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr. and David A. Wildman, Deputy Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

Defendant appeals from her convictions for one count of receiving county assistance by misrepresentation and four counts of perjury by false application for assistance in each of the years 2010 through 2013. Defendant asserts that the People failed to prove she possessed the requisite intent to commit the crimes. We affirm as substantial evidence supports her convictions.

FACTS AND PROCEDURAL BACKGROUND

1. Defendant Applies for and Obtains Food Stamps in 2010

During all relevant times, defendant was self-employed as a childcare provider, working as an independent contractor for a non-profit child development program called Crystal Stairs.

In 2010, defendant applied for food stamps through the Los Angeles County Department of Social Services (DPSS). In order to qualify for food stamps, defendant's monthly income was required to be less than 200 percent of the federal poverty line. In her application, defendant reported her July 2010 self-employed cash income for child care services was \$1,200 per month, before deductions, and that she worked 40 hours per week. She also reported that she received \$815 per month in foster care payments from the state for the foster child in her custody.¹ She certified that the statement of her earnings was true and signed the document. Because defendant stated that she was being paid in cash, she was not required to produce checks or paystubs showing the payments. Rather, she signed an affidavit attesting to her income. The DPSS intake worker who

¹ Defendant had a foster child living with her and received money in exchange for caring for the foster child from the time she first applied for food stamps until 2012, when defendant adopted the child.

met with defendant during this intake procedure informed defendant that the income had to be the true amount she was paid, prior to any deductions.

Food stamp applicants who are self-employed may claim expenses to be deducted from their net income in calculating whether they qualify for food stamps. The DPSS intake worker instructed defendant that she could either verify her actual expenses to deduct or choose the standard 40-percent deduction. Applicants who elect to have their actual expenses deducted from their income are required to bring in actual invoices for the expenses. Defendant chose the standard 40-percent deduction. DPSS subsequently issued food stamps to defendant.

Contrary to defendant's statement that she earned \$1,200 in July for her self-employed childcare work, Crystal Stairs's records showed that it had in fact paid defendant \$5,727.66 in mid-July 2010 for child care services, an amount that would have disqualified defendant from receiving food stamps even after applying deductions.²

2. *Defendant's Earnings and Inaccurate Reporting to DPSS in 2010*

If the food stamps recipient's income increased above the threshold requirement for receiving food stamps, the recipient was required to report the change to DPSS within five days. DPSS also required food stamp recipients to file quarterly reports of their income. In the quarterly reports, the recipient reported all the income she received in a single specified month. Defendant repeatedly filed incomplete reports between 2010 and

² Crystal Stairs directly deposited money into defendant's bank account multiple times each month. For ease of reading, we summed the amounts for each month when discussing defendant's monthly income.

2013. At these quarterly intervals, DPSS regularly contacted her to provide more income information, which she did.

Under the federal guidelines, in 2010, defendant could not earn more than \$1,984 per month (after deductions) and still receive food stamps. In defendant's September 2010 quarterly report, she listed her gross self-employment income as \$1,125 and her foster care income as \$815. Crystal Stairs's records indicated that it paid defendant much more than \$1,125 per month for childcare services: (1) \$6,573.89 in August 2010; (2) \$6,718.88 in September 2010; (3) \$5,903.64 in October 2010; and (4) \$6,017.78 in November 2010. Defendant's bank records corroborated Crystal Stairs's payment records.

3. *Defendant's Earnings and Inaccurate Reporting to DPSS in 2011*

From January to August 2011, defendant could not earn more than \$1,984 per month to qualify for food stamps. From September through December 2011, the limit was \$2,008 per month. Each of the reports defendant submitted attested that she was below the respective figures. Defendant submitted her next quarterly report in January 2011, indicating she earned \$500 per month from Diverse Journeys and \$500 in self-employment income. In May 2011, defendant signed and returned another quarterly report. In it, she declared under penalty of perjury that the gross amount of her self-employment income was \$750, that she had additional income of \$234.75, and that her foster care income was \$815. In July 2011, defendant reported under penalty of perjury that she earned \$950 in self-employment income and \$815 from foster care income. In the fall of 2011, defendant submitted a quarterly report attesting that her self-employment income for September 2011 was \$850 and that her foster care income was \$990. Defendant continued to receive food stamps.

Crystal Stairs's payment records showed that defendant's self-employed income was significantly greater than the amount she claimed in her 2011 quarterly reports to DPSS. Crystal Stairs made the following payments to defendant's bank account in 2011: (1) \$6,472.45 in January; (2) \$4,848.28 in February; (3) \$2,871.80 in March; (4) \$4,132.97 in April; (5) \$6,823.61 in May; (6) \$4,032.74 in June; (7) \$3,871.74 in July; (8) \$6,969.85 in August; (9) \$5,121.97 in September; (10) \$3,779.59 in October; (11) \$441.35 in November; and (12) \$1,722.96 in December. Defendant's bank records corroborated these deposits.

4. *Defendant's Earnings and Inaccurate Reporting to DPSS in 2012*

From January to August 2012, defendant could not earn more than \$2,008 per month to qualify for food stamps. From September through December 2012, the maximum was \$2,069. In February 2012, defendant signed under penalty of perjury and returned to DPSS her quarterly report stating that she earned \$990 for foster care and \$860 for self-employment in December 2011. In April 2012, defendant submitted her March 2012 quarterly report attesting under penalty of perjury that her March 2012 income consisted of \$990 for foster care and \$845 in self-employment.

Yet, Crystal Stairs's payment records showed that it paid defendant more in self-employment income than she claimed in her first two 2012 quarterly reports: (1) \$1,185.32 in January 2012; (2) \$2,049.50 in February 2012; (3) \$1,777.25 in March 2012; (4) \$1,769.69 in April 2012; (5) \$1,769.69 in May 2012; and (6) \$1,769.69 in June 2012. Defendant's bank records once again confirmed these deposits.

5. *Defendant's Earnings and Inaccurate Reporting to DPSS in 2013*

From January to September 2013, the maximum monthly income allowed to food stamp recipients was \$2,069. From October through December 2013, it was \$2,116 per month. In June 2013 after defendant's food stamps had been terminated for failure to file a complete quarterly report, defendant again applied for food stamps, attesting that she received a total of \$1,759 in income (\$1,009 of foster care income and \$750 in self-employment income). She signed the document under penalty of perjury.

Crystal Stairs payment records showed that it paid defendant in 2013: (1) \$2,665.20 in January; (2) \$2,292.50 in February; (3) \$1,225.77 in March; (4) \$1,352.97 in April; (5) \$1,426.02 in May; (6) \$4,045.19 in June; (7) \$3,114.43 in July; (8) \$3,674.95 in August; (9) \$1,931.54 in September; (10) \$1,708.02 in October; (11) \$1,412.82 in November; and (12) \$1,396.25 in December. Defendant's bank records confirmed these transfers.

6. *Criminal Proceedings*

In an information filed in February 2015, the People charged defendant with one count of aid by misrepresentation and five counts of perjury by false application for aid. Count 1 addressed defendant's original 2010 food stamps application. Count 2 related to defendant's subsequent income reporting in 2010. Counts 3, 4, and 5 respectively addressed defendant's income reporting in 2011, 2012, and 2013. (A sixth count was filed but later dismissed.) Defendant pleaded not guilty.

A DPSS eligibility computation clerk, who specialized in welfare fraud investigations, investigated defendant's welfare fraud. In anticipation of trial, she prepared an analysis in October 2015 based on Crystal Stairs's records, documents

showing the amount of food stamps paid, and other relevant DPSS materials. The clerk determined that DPSS overpaid defendant \$10,694.

In March 2016, defendant's jury trial commenced. The People examined several DPSS employees regarding defendant's application and forms filed with DPSS to obtain food stamps, as well as an employee of Crystal Stairs, who testified about defendant's income. The People also introduced numerous exhibits into evidence documenting defendant's statements made under penalty of perjury, and defendant's earnings from 2010 through 2013. The People did not have a copy of defendant's five-page initial food stamps application to introduce into evidence. Rather, the DPSS intake worker, who met with and handled defendant's application, described the information she inputted into DPSS's system based on statements made by defendant in her application. The intake worker also explained the information she provided defendant when defendant was filing the application.

Defendant introduced testimony from another DPSS employee who had commenced a DPSS fraud investigation into defendant in 2015. This employee closed the case because she discovered there was another open investigation of defendant, and noted that as far as her own fraud investigation was concerned, she had uncovered no fraud.

Defendant also testified on her own behalf. She stated that when she applied for food stamps, she did not understand the rules for reporting her income and deductions. When DPSS informed her about the 40 percent standard deduction for self-employed applicants, defendant thought that it meant she was being awarded 40 percent less aid because of her self-employment. She stated that the amount she reported as her income on the October 2010 quarterly report was what she

determined she had left from the Crystal Stairs's payments after paying her business expenses. Defendant did not report the full amount she received from Crystal Stairs. Defendant's theory at trial – repeated on appeal – was that she lacked the requisite intent to commit the crimes because she failed to comprehend the deduction rules for self-employed individuals applying for food stamps, and thus did not intentionally make false statements.

7. *Defendant's Conviction and Sentence*

The jury found defendant guilty as charged in counts 1 through 5. For count 1, the court sentenced defendant to 45 days in county jail and three years of formal probation. The court imposed an identical sentence for counts 2 through 5 and ordered them to run concurrently.

DISCUSSION

Defendant contends that insufficient evidence supports her convictions for aid by misrepresentation and perjury by false application for aid specifically that the prosecution did not prove that she intentionally made a false application or committed perjury.

1. *Standard of Review*

In reviewing claims of insufficient evidence, “ ‘we review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citations.]’ ” [Citation.] ‘. . . [W]e presume every fact in support of the judgment the trier of fact could have reasonably deduced from the evidence.’ [Citation.]” (*People v. Wilson* (2008) 44 Cal.4th 758, 806.) Where the jury convicts on circumstantial evidence, that the evidence was reasonably susceptible to a contrary finding does not lead to reversal of the judgment. (*People v. Kraft* (2000) 23 Cal.4th 978,

1053–1054.) Reversal is warranted only where it appears “‘that upon no hypothesis what[so]ever is there sufficient substantial evidence to support [the conviction].’ [Citation.]” (*People v. Bolin* (1998) 18 Cal.4th 297, 331.) These same rules apply when a defendant claims there was insufficient evidence that she or he acted with a specific intent. (*People v. Park* (2003) 112 Cal.App.4th 61, 68.)

2. *Substantial Evidence of Defendant’s Intent Supports the Convictions*

Defendant does not dispute that she earned more income than she reported to DPSS. Rather, defendant argues that the prosecution failed to prove that she possessed the intent to commit aid by misrepresentation and perjury by false application for aid. Conviction for aid by misrepresentation requires that the defendant make the false statement “willfully and knowingly, with the intent to deceive.” (Welf. & Inst. Code, § 10980, subd. (c).) Perjury likewise occurs when a defendant “willfully and contrary to the oath, states as true any material matter which he or she knows to be false.” (Pen. Code, § 118.)

Here, the jury could have reasonably inferred defendant’s intent to deceive DPSS from defendant’s statements made under penalty of perjury to DPSS in her application and quarterly reports, and from the payment records from Crystal Stairs, which showed defendant’s historical income. It is clear from the numbers defendant reported, when compared to the actual amounts she was paid, that she made significantly more money than she claimed on the forms she submitted to obtain food stamps. The disparity between the reported and the earned self-employment income was significant, often varying by thousands of dollars. Because of this disparity, a jury could reasonably have found that defendant had not made a computational or other minor mistake, but that her misrepresentations were intentional.

Defendant argues that this evidence is insufficient because it is circumstantial and because her testimony showed that she did not intend to deceive. Yet, “[s]pecific intent may be, and usually must be, inferred from circumstantial evidence.” (*People v. Cole* (1985) 165 Cal.App.3d 41, 48.) Here, there was plenty of documentary evidence and testimony by DPSS workers to support the jury’s inference of specific intent to deceive.

Defendant argues that the evidence was susceptible to two reasonable conclusions, one of which pointed to defendant not having the requisite intent, and thus “the jury was sworn to find her not guilty.” Defendant’s point confuses the duties of a jury and those of an appellate court in considering reasonable inferences. Defendant is essentially asking this court to reweigh the evidence before the jury, which we may not do on appeal. “We ‘must accept logical inferences that the jury might have drawn from the circumstantial evidence. [Citation.]’ [Citation.] ‘Although it is the jury’s duty to acquit a defendant if it finds the circumstantial evidence susceptible of two reasonable interpretations, one of which suggests guilt and the other innocence, it is the jury, not the appellate court that must be convinced of the defendant’s guilt beyond a reasonable doubt. [Citation.]’ [Citation.] Where the circumstances reasonably justify the trier of fact’s findings, a reviewing court’s conclusion the circumstances might also reasonably be reconciled with a contrary finding does not warrant the judgment’s reversal. [Citation.]” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357-358.)

Defendant also asserts that the DPSS intake worker’s testimony “raised serious questions as to what was communicated between [the intake worker] and [defendant].” Defendant takes issue with the intake worker’s testimony that although she did not specifically recall meeting with defendant (as she sees eight to 10 welfare applicants per day) she advised

defendant, as she tells all self-employed applicants, about the deductions and how to properly fill out the application. Again, defendant disputes the weight of the evidence, which we do not address on appeal. (*People v. Jennings* (2010) 50 Cal.4th 616, 638 [“We neither reweigh the evidence nor reevaluate the credibility of witnesses.”].)

DISPOSITION

We affirm defendant’s conviction.

RUBIN, Acting P.J.

WE CONCUR:

FLIER, J.

GRIMES, J.