

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK LOUIS WEAVER,

Defendant-Appellant.

UNPUBLISHED

August 16, 1996

No. 182234

LC No. 94-1584-FH

Before: Reilly, P.J., and Cavanagh, and R.C. Anderson,* JJ.

PER CURIAM.

Defendant was convicted by a jury trial of financial transaction devices, stealing and retaining without consent (FTD), MCL 750.157n(1); MSA 28.354(14)(1). He pleaded guilty of being an habitual offender, fourth offense, MCL 769.12; MSA 28.1084), and was sentenced to three to ten years of imprisonment. He appeals as of right, and we affirm.

Defendant contends that the evidence was insufficient to support the conviction. Contrary to defendant's assertions, the absence of testimony that defendant had the credit card and the fact that the beneficiaries of the unauthorized use of the card were the cardholder's daughter and grandchildren are irrelevant. The statutory definition of "financial transaction device" includes a credit card account number. MCL 750.157m(f)(v); MSA 28.354(13)(f)(v). Knowing use of a financial transaction device without the consent of the deviceholder is a felony, regardless of who benefited from the use. MCL 750.157n(1); MSA 28.354(14)(1).

Defendant also contends that he was denied a fair trial because the prosecutor "called the jury's attention to defendant's prior conviction for the same crime." The prosecutor asked defendant whether he had been previously convicted of felonies that involve theft or dishonesty. Without objection, defendant replied that he had, and upon further inquiry explained, "I have used a credit card in the past, bad checks, uttering and publishing." He also admitted that there were "some theft offenses." These convictions were admissible under MRE 609(a)(1) "for the purpose of attacking the credibility of a

* Circuit judge, sitting on the Court of Appeals by assignment.

witness . . . “ We find no support for defendant’s contention that the prosecutor “misused” this evidence to show that defendant had a propensity for committing this crime.

Finally, defendant contends that the prosecutor appealed to the emotions and civic duty of the jury by his statements, “Ladies and gentlemen, you have an obligation to follow the law. Do your jobs. Don’t compromise the truth.” These statements do not inject into the trial issues broader than a particular defendant’s guilt or innocence and do not amount to a civic duty argument. Compare, *People v Wright (On Remand)*, 99 Mich App 801, 808-810; 298 NW2d 857 (1986).

Affirmed.

/s/ Maureen Pulte Reilly

/s/ Mark J. Cavanagh

/s/ Robert C. Anderson