

IN THE COURT OF APPEALS OF IOWA

No. 17-0709
Filed June 6, 2018

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JAMES TYREE SCOTT,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Linda Fangman,
Judge.

James Scott appeals his forgery conviction. **REVERSED AND
REMANDED.**

Alexander Smith of Parrish Kruidenier Dunn Boles Gribble Gentry Brown &
Bergmann L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Martha E. Trout, Assistant Attorney
General, for appellee.

Considered by Vogel, P.J., and Doyle and Bower, JJ.

DOYLE, Judge.

James Scott appeals after a jury convicted him of one count of forgery. His conviction stems from his attempt to purchase a cell phone with a document made to appear—at a glance—like a \$100 bill. However, just to the right of the likeness of Benjamin Franklin on the bill's front, it states in large font: "FOR MOTION PICTURE USE ONLY." Beneath that, in small font, it states: "THIS NOTE IS NOT LEGAL. IT IS TO BE USED FOR MOTION PICTURES." The "FOR MOTION PICTURE USE ONLY" caution is repeated in small font both below the numeral "100" in the front left corner and again in a banner affixed to the bottom of the Benjamin Franklin rendering. Across the top of the back of the bill, it states, "MOTION PICTURE USE ONLY," in large font. The clerk immediately rejected the paper as not being real money.

The jury was instructed that in order to find Scott guilty of forgery, the State was required to prove the following:

1. On or about the 15th day of April, 2016, [Scott] uttered or possessed a writing.
2. [Scott] knew the writing had been made so it would appear to be the act of one who did not authorize the act.
3. [Scott] specifically intended to defraud or injure the New Star Liquor
4. The writing is or purports to be money.

See Iowa Code § 715A.2(1)(b), (2)(a)(1). Scott challenges the sufficiency of the evidence supporting his conviction.

We review challenges to the sufficiency of the evidence for correction of errors at law. See *State v. Leckington*, 713 N.W.2d 208, 212-13 (Iowa 2006). The jury's verdict is binding if supported by substantial evidence. See *id.* at 213. Evidence is substantial if it could convince a rational trier of fact that the defendant

is guilty beyond a reasonable doubt. See *id.* We view the evidence in the light most favorable to the State. See *id.*

“Where a writing is invalid on its face, it cannot be the subject of forgery, for the reason that it has no legal tendency to effect a fraud” *State v. Pierce*, 8 Iowa 231, 231 (1859); accord *State v. Johnson*, 26 Iowa 407, 418 (1869). If the writing is not capable of deceiving, its utterance does not constitute an offense. See 36 Am. Jur. 2d Forgery § 26. Although the forged instrument need not be perfect in its resemblance to the instrument it is intended to represent, it must bear “such a resemblance to the document as may deceive a person of reasonable and ordinary observation or business capacity although experts or persons of experience could not be deceived by it.” *Id.*

Although similar enough to United States currency to pass for it at a distance or without inspection, the bill tendered here did not purport to be legal tender. In addition to numerous other features that distinguish it from legal tender,¹

¹ On its website, Production Props and Media Designs LLC represents that its prop money “will not pass as real currency.” *Disclaimer – Prop Money*, PROPMOVIEMONEY.COM, <https://propmoviemoney.com/legaldisclaimer/> (last visited May 9, 2018). It further states that it “has carefully created these money props while focusing on the legal requirements of the production of prop money.” *Id.* In addition to marking its prop bills with the statements, “THIS NOTE IS NOT LEGAL TENDER” and “FOR MOTION PICTURE USE ONLY,” the website lists the following features intended to distinguish its prop money from legal currency:

Prop stacks are cut slightly smaller than real currency which is not noticeable on camera.

- New style \$100 prop prints does NOT have a working hologram and cannot be created with a working hologram.

- President and character faces are designed to resemble fictitious cartoon comic type characters and are dramatically different than the real presidents and characters.

- The names underneath the characters are stated “FOR MOTION PICTURE”.

- Emblems and seals both on the left and right of the prop bills are our own custom designs and are clearly labeled FOR MOTION PICTURE USE ONLY, UNITED WE STAND or THE UNITED STATES.

the bill states numerous times on its face that it is for “motion picture use only” and is not legal. It does not purport to be money. Because the requirement that the writing purports to be money was not satisfied, there is insufficient evidence to support Scott’s conviction. Accordingly, we vacate Scott’s sentence, reverse his conviction, and remand for dismissal of the charge.

REVERSED AND REMANDED.

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- Back ground [sic] art on newer style prop bills are designed or made with clip art and is different than the art on real currency.
 - The colors and contrast of the prop money have been designed to give the highest quality for HD cameras, film cameras and photography cameras and are not exactly the same if compared side by side to real currency.
 - Borders on our prop bills are different than real currency and there is NO text stating “FEDERAL RESERVE NOTE” on either side of the prop money nor can we add it as a request.
 - Serial numbers (PR10008679P) are fictitious and reoccurring on all of our prop bills.
 - Treasurer and Secretary names are fictitious. Nor does it say “Treasury of the United States” or “Secretary of the United States” on any of the prop money.
 - The text “THE UNITED STATES OF AMERICA” specifically stating “AMERICA” or its states and/or cities is not shown on any of the prop bills front or back and has been replaced with FOR MOTION PICTURE USE ONLY, UNITED WE STAND or THE UNITED STATES.
 - The years or dates on the prop bills are different than those of real currency.
 - Buildings on the back of each prop bill is significantly different than real US currency.
 - The paper that each prop bill is printed on is quality printing paper not the fabric similar to real currency and does not have the same texture, feel or security features of real US currency.
 - Holograms, holographic numbers and holographic emblems on the prop bills front and back does not reflect or bend with light nor can they be created to reflect or bend with light.
 - Absolutely “none” of our prop money will pass a counterfeit detection pen or counterfeit detection machine.

Id.