

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR09-376

FLORA RUTH BAKER,
APPELLANT

V.

STATE OF ARKANSAS,
APPELLEE

Opinion Delivered November 18, 2009

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
[NO. CR 07-4017]

HONORABLE BARRY SIMS, JUDGE

AFFIRMED

KAREN R. BAKER, Judge

Following a bench trial, a Pulaski County court found appellant Flora Ruth Baker guilty of fraudulently using a credit card belonging to her employer, the Lonoke County Sheriff's Department, and sentenced her to ten years imprisonment in the Arkansas Department of Correction, with seven years suspended. Appellant asserts two points of error on appeal. First, she argues that the trial court erred in denying her motion for a directed verdict because the evidence was insufficient to show unauthorized use of the credit card. Second, she claims that the trial court did not have jurisdiction to hear the case because no harm occurred in Pulaski County. We find no error and affirm.

When the sufficiency of the evidence is challenged, the test is whether substantial evidence supports the verdict. *Butler v. State*, 2009 Ark. App. 695, 371 S.W.3d 699. Substantial evidence is evidence of sufficient force and character to compel a conclusion beyond

suspicion or conjecture. *Id.* We review only evidence that supports the conviction and do not weigh it against other evidence that is favorable to the accused. *Id.* The fact-finder is free to believe all or part of a witness's testimony. *Id.* Further, we do not weigh the credibility of witnesses on appeal; such matters are left for the fact-finder. *Id.*

Appellant was convicted of violating Arkansas Code Annotated section 5-37-207, which provides:

(a) A person commits the offense of fraudulent use of a credit card or debit card, if with purpose to defraud, he or she uses a credit card, credit card account number, debit card, or debit card account number to obtain property or a service with knowledge that:

(1) The credit card, credit card account number, debit card, or debit card account number is stolen;

(2) The credit card, credit card account number, debit card, or debit card account number has been revoked or cancelled;

(3) The credit card, credit card account number, debit card, or debit card account number is forged; or

(4) For any other reason his or her use of the credit card, credit card account number, debit card, or debit card account number is unauthorized by either the issuer or the person to whom the credit card or debit card is issued.

(b) Fraudulent use of a credit card or debit card is a:

(1) Class C felony if the value of all moneys, goods, or services obtained during any six-month period exceeds one hundred dollars (\$100); or

(2) Class A misdemeanor if otherwise committed.

Ark. Code Ann. § 5-37-207 (Repl. 2006).

At trial, the Lonoke County Sheriff and three employees of the Sheriff's Department described their investigation into purchases made by appellant at Wal-Mart and Sam's Club stores in Pulaski County while she was employed by the Department. Based on information provided by another Department employee, Detective Michelle Stracener investigated purchases made by appellant with a Department credit card. She asked appellant to write her initials next to purchases on credit card bills that were her personal purchases, and appellant did so. Sheriff Jim Roberson testified that his office informed employees when credit cards are issued that the cards are not for personal use. The State presented receipts from Sam's Club and invoices initialed by appellant to show that appellant used a credit card issued by the Department to buy food and other goods.

On appeal, appellant argues that the statute does not distinguish between unauthorized or personal use. Citing *Patterson v. State*, 326 Ark. 1004, 935 S.W.2d 266 (1996), she asserts that testimony clearly established that she was in fact authorized by the Department to use the card, and that the State presented no proof that she was not authorized to use the card. The State responds that appellant misapprehends the statute and the case law interpreting it, emphasizing that the statute explicitly refers to unauthorized use of the card, not use by an unauthorized user. Our supreme court in *Patterson* similarly emphasized that the statutory prohibition is directed at "a person's acts when his or her use of the card is unauthorized."

Patterson, 326 Ark. at 1005, 935 S.W.2d at 267.

Appellant also argues that the trial court erred by admitting Chapter 2 of Lonoke County's personnel handbook into evidence, which is titled "Code of Ethics." Section G of the chapter states that "County employees shall not use county funds, supplies, or facilities for purposes other than to conduct official county business." She argues that the document was hearsay and therefore prohibited by Rule 801 of the Arkansas Rules of Evidence. This argument was not preserved for review as appellant did not object at trial to the introduction of the handbook on the basis that it was hearsay. *Winkle v. State*, 374 Ark. 128, 132, 286 S.W.3d 147, 150 (2008).

We find that sufficient evidence supports appellant's conviction for unauthorized use of a credit card. Testimony established that appellant was authorized by the Department to use the card only for county purchases and that she used the card in contravention of that authorization by using it for personal purchases. Her use of the card for personal purchases is unauthorized by the Department and falls within the statute's prohibition of "[f]or any other reason his or her use of the credit card, credit card account number, debit card, or debit card account number is unauthorized by either the issuer or the person to whom the credit card or debit card is issued." Ark. Code Ann. § 5-37-207(a)(4).

We also affirm on her second point where she claims that the Pulaski County Court had no jurisdiction. "Where the offense is committed partly in one county and partly in another, or the acts or effects thereof requisite to the consummation of the offense occur in

two (2) or more counties, the jurisdiction is in either county.” Ark. Code Ann. § 16-88-108(c) (Repl. 2005). It is presumed that jurisdiction is proper, “unless the evidence affirmatively shows that no act essential to the offense and no effect of the offense occurred in [Pulaski] County.” *Hill v. State*, 253 Ark. 512, 523, 487 S.W.2d 626, 632 (1972).

Appellant argues that there was no harm to the stores where the purchases were made so that Pulaski County Circuit Court did not have jurisdiction over this case. However, it is undisputed that the purchases at issue in this case, constituting the principal element of each offense of fraudulently using a credit card, took place in Pulaski County. Because appellant used the card without authorization in Pulaski County, the circuit court had jurisdiction over this case. Accordingly, we affirm.

Affirmed.

GRUBER and BROWN, JJ., agree.