

STATEMENT OF THE CASE

Defendant-Appellant Shaunika Jones appeals her conviction of forgery, a Class C felony. We affirm.

ISSUE

Jones raises one issue for our review, which we restate as: Whether the trial court erred in determining that the State presented sufficient evidence to support the conviction.

FACTS AND PROCEDURAL HISTORY

On July 27, 2008, Jones visited Dr. Scott Renshaw for examination and treatment of a rash. At the conclusion of the visit, Renshaw wrote prescriptions for a medicine to treat the rash and a medicine called Tussionex, a narcotic cough suppressant containing hydrocodone. Renshaw wrote the second prescription on his “controlled substances” pad for eight ounces of the Tussionex. Renshaw normally wrote prescriptions for only four ounces of the medicine, but made an exception because Jones had received the higher amount from other doctors. Jones took the cough suppressant so that her persistent cough would not cause the loosening of staples inserted during a recent surgery on her colon.

Later that day, Jones presented the prescriptions to an intern at a CVS pharmacy. The prescription for the rash was filled, but Jones’ insurance company refused to pay for the Tussionex because she had filled a prescription for ten ounces just ten days earlier. The intern checked Jones’ identification and wrote

her driver's license and date of birth on the prescription script. The intern told Jones that her insurance would not pay for the medicine and that she would have to return on August 9.

On August 1, Jones called the pharmacy and asked the pharmacy manager, Stacy Kaiser, whether she could fill the prescription. Kaiser noticed that the prescription was written for the largest quantity she had ever seen, eighteen ounces. Kaiser called Renshaw's office and verified that the prescription had actually been written for eight ounces, and she noted on the script that the prescription had been "altered per MD." (Tr. at 41).

Later that evening, Jones came to the pharmacy drive-through and requested the medicine. Kaiser told Jones it would take approximately thirty minutes to fill the prescription and asked her to return. Kaiser then called the police, who arrested Jones upon her return to the pharmacy.

Jones, who was on probation on a prior forgery conviction, was charged with forgery as a Class C felony because "on or about July 27, 2007, [Jones] did, with intent to defraud, utter to [the intern] a written instrument" that had been changed to show eighteen instead of eight ounces of Tussionex. After a bench trial, the trial court found Jones guilty of the charge. Jones now appeals.

DISCUSSION AND DECISION

When reviewing the sufficiency of evidence to support a conviction, an appellate court considers only the probative evidence and reasonable inferences

supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). Stated differently, the court looks only to the evidence favorable to the State and all reasonable inferences therefrom. *Bennett v. State*, 871 N.E.2d 316, 319 (Ind. Ct. App. 2007), *adopted by* 878 N.E.2d 836 (Ind. 2008). Courts of review must be careful not to impinge on the fact finder's authority to assess witness credibility and to weigh the evidence. *Drane, id.* We will affirm the conviction unless “no reasonable fact finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* (quoting *Jenkins v. State*, 726 N.E.2d 268, 270 (Ind. 2000)).

In order to obtain a conviction of forgery, the State must establish that the defendant, with intent to defraud, “makes, utters, or possesses a written instrument that it purports to have been made . . . with different provisions.” Ind. Code § 35-43-5-2(b)(3). Here, Jones concedes that the evidence establishes that she presented the prescription to the intern. Furthermore, even though Jones does not acknowledge altering the prescription's provisions, there is evidence from the doctor who wrote the script that establishes alteration from eight to eighteen ounces of Tussionex. The sole remaining issue is whether Jones had “intent to defraud” at the time she presented the prescription. This issue, of course, includes the question of whether she knew of the alteration. Intent to defraud may be proved by circumstantial evidence including the general conduct of the defendant

in presenting the instrument. *Williams v. State*, 892 N.E.2d 666, 671 (Ind. Ct. App. 2008), *trans. denied*.

Our examination of the transcript discloses that ten days before obtaining the prescription on July 27, 2007, Jones had obtained a supply of the narcotic sufficient to last at least until August 9, 2007. Nevertheless, she obtained the prescription from Renshaw for an additional eight ounces. She presented this prescription to the pharmacist on the same day, and it was thereafter determined to have been altered to show eighteen ounces. Jones testified that because she had a tendency to lose prescriptions, she would attach them to the visor of her vehicle and soon thereafter take them to the pharmacy. With reference to the July 27 prescription, she testified that it went “from my hand to the—to the visor to the—to the pharmacist.” (Tr. at 69). Despite her argument on appeal that someone else may have altered the prescription, the evidence establishes that it never left her possession until it was presented to the CVS intern.¹ Furthermore, there is no evidence of alteration after that presentation. The trial court reasonably determined that the State presented sufficient circumstantial to establish that presented an altered prescription with the intent to defraud. We decline Jones’ invitation to reweigh the evidence.

Affirmed.

¹ Jones argues on appeal that someone else could have altered the prescription before she presented it to the pharmacy. There is not even a scintilla of evidence to support this claim. Use of Jones’ vehicle by others on a later date does not establish such use on July 27, 2007.

BAKER, C.J., and VAIDIK, J., concur.