



money, forgery of cheques and obtaining merchandise by fraud. Ten other convictions were also entered against her for summary offences at the same time but are not involved in this appeal.

By an agreed statement of facts the appellant admitted that she had performed the physical acts which constituted the offences but argued that she did not possess the mental element or *mens rea* necessary to render her guilty of the crimes. The appellant testified that she suffered from a multiple personality disorder and although one of her personalities must have committed the offences she had no recollection of any of the events.

Dr. Michael J.D. Thompson, a psychiatrist, testified that the appellant suffered from multiple personality disorder and described the nature of that disorder and the treatment being administered to the appellant.

After considering all of the evidence the trial judge reached the following conclusions:

" The bottom line of the testimony of the psychiatrist is this; he believes that the accused legitimately, he believes her to legitimately have the rare disorder and further thinks that her claim not to have any recollection of the offences is consistent with the disorder. I quote again, he testified 'What she says about personality is perfectly possible.'

I was impressed by the doctor's testimony, particularly the fact that he was not dogmatic but raised real possibilities, he didn't say anything for sure. I do not however find that these real possibilities raised or the accused's testimony cause me any reasonable doubt as to the accused's knowledge and understanding that she was committing these criminal acts at the time that she committed them. These are specific intent type offences, there are many of them. They require planning and relative sophistication as opposed for instance to a spontaneous physical act such as some types of assault. In some instances these acts involved the fabrication of a story, i.e. the statement by the accused that she worked at Michelin Tire and had just been transferred to this area. Involved the fabrication of a story to facilitate the passing of the cheques. I am satisfied that she knew what she was doing at that time. I do not however deny the possibility that the accused has a disassociated personality as testified to both by the accused and by Dr. Thompson. I think also it is possible that the accused does not now remember having committed those offences. I think that is a real possibility. The loss or lack of memory subsequent to an offence of course is not in itself a defence. I repeat that given the nature and quantity of the offences committed over the timeframe involved causes me no reasonable doubt as to the accused's knowledge and understanding that she was committing the offences at the time that she committed them. The question was put to Dr. Thompson, 'Did the part', 'Did the part of her that did the offence know what it was doing?' And he responded initially 'I

honestly don't know', and then said 'I think that part probably did but I'm not certain'.

I find, and this is the finding, that the accused did intend the consequences of her act and that the psychiatric disorder described and the real possibility that the accused does not now remember, does not now remember having committed those offences is a sentencing consideration. That situation does not raise a doubt as to her guilt at the time the offences were committed. The accused having admitted committing those offences and my having found that at the time of the commission of the offences that she was aware of what she was doing, I am entering the convictions on the 26 counts."

The trial judge found as a fact that the appellant had the necessary *mens rea* to commit the offences charged and we can see no error on his part in reaching this conclusion. We would therefore dismiss the appeal.

J.A.

Concurred in:

Clarke, C.J.N.S.

Roscoe, J.A.

IN THE SUPREME COURT OF NOVA SCOTIA

APPEAL DIVISION

BETWEEN:

FLORENCE LILLIAN RYBARSKY )

Appellant )

- and - )

HER MAJESTY THE QUEEN )

Respondent )

REASONS FOR  
JUDGMENT BY:

HART, J.A.  
(orally)