

FEDERAL LAW – BANK FRAUD

Loughrin v. U.S., --- U.S. --- (2014)

Decided June 23, 2014

FACTS: Pretending to be a missionary, Loughrin went door-to-door in a Salt Lake City neighborhood. He “rifled through residential mailboxes and stole any checks he found.” In some cases, he was able to alter the checks to remove existing writing and filled them out “as he wanted,” in other cases, he “did nothing more than cross out the name of the original payee and add another.” On at least one occasion, he was “lucky enough to stumble upon and blank check,” whereupon he filled it out and forced the account holder’s name. As many as six were cashed through Target, and he would buy merchandise, then return and exchange the goods for cash.

Each of the checks cashed at Target when through a federally insured bank. In three instances, Target recognized the checks as frauds and did not submit them for payment, three others were cashed. In at least one instance, the bank declined payment, the evidence was unclear as to what happened with the other two.

Eventually Loughrin was apprehended and charged with six counts of bank fraud, under 18 U.S.C. §1344. He was convicted and appealed. The Tenth Circuit Court of Appeals affirmed. Loughrin requested certiorari and the U.S. Supreme Court granted review.

ISSUE: Is the presentation of a fraudulent bank check to a merchant bank fraud?

HOLDING: Yes

DISCUSSION: The question before the Court was “whether the Government must prove yet another element; that the defendant intended to defraud a bank.” In other words, more than just intending to get money, that it was necessary to specifically intend to deceive a bank. Loughrin argued that he only intended to deceive Target, not the bank.

The Court, however, disagreed, finding, that Loughrin’s crime occurred by his making of false statements, “in the form of forged and altered checks, that a merchant would, in the ordinary course of business, forward to a bank for payment.” As such, the Court agreed, his conviction was proper.

FULL TEXT OF OPINION: http://www.supremecourt.gov/opinions/13pdf/13-316_3204.pdf

