

No. 1-14-0230

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

| | | |
|--------------------------------------|---|---------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the |
| |) | Circuit Court of |
| Plaintiff-Appellee, |) | Cook County |
| |) | |
| v. |) | No. 11 CR 17317 |
| |) | |
| SAM JORDAN, |) | Honorable |
| |) | Vincent M. Gaughan, |
| Defendant-Appellant. |) | Judge Presiding. |

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hall and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held:* The circumstantial evidence was insufficient to prove beyond a reasonable doubt that defendant, a public employee, committed theft and official misconduct by transferring and withdrawing funds using accounts intended to disburse government benefits and we reverse those convictions.

¶ 2 Following a bench trial, defendant-appellant, Sam Jordan, was convicted of theft and official misconduct for diverting funds from the accounts of State aid recipients while he was employed by the Illinois Department of Human Services (DHS) at its local office located in the Austin neighborhood of Chicago (Austin DHS office) and sentenced to four years' probation and ordered to pay \$21,600 in restitution. On appeal, defendant contends his convictions should be

reversed because the State did not prove that he was the person who performed those transactions. Alternatively, defendant contends that his conviction for official misconduct should be vacated pursuant to the one-act, one-crime doctrine. For the following reasons, we reverse defendant's convictions.

¶ 3

BACKGROUND

¶ 4 Defendant was tried on one count each of theft and official misconduct. The theft count alleged that, between November 1, 2007, and December 31, 2008, defendant, in furtherance of a single intention and design, knowingly obtained or exerted unauthorized control over property of DHS valued between \$10,000 and \$100,000, with the intent to deprive it permanently of the use or benefit of that property, in violation of section 16-1(a)(1)(A) of the Criminal Code (Code) (720 ILCS 5/16-1(a)(1)(A) (West 2008)). The official misconduct count alleged that defendant committed the alleged theft as a public employee of DHS, thereby committing misconduct in his official capacity by knowingly performing an act he knew to be forbidden by law, in violation of section 33-3(b) of the Code (720 ILCS 5/33-3(b) (West 2008)).

¶ 5 The State's theory at trial was that defendant obtained government monies by transferring benefit funds into the accounts of several aid recipients and withdrawing those funds at automatic teller machines (ATMs) using Link cards connected to those recipients and that defendant used the work account of Harold Harris, another DHS employee, to transfer the benefits. The State called as witnesses, DHS employees: Deidre Givens; Alberto Bardelas; Tasha Barnes; and Bernadine Davis, and aid recipients: Lydia Taylor; Laverne Hunter; Rodney Edmonson; and Corey Watkins (collectively, the four aid recipients). Additionally, the State admitted into evidence without objection various DHS computer generated business records including: (1) a record which lists all transactions which were done at the Austin DHS office

during the time in question with the employee identification (ID) number for each action taken (People's exhibit number 1); (2) the attendance records of Mr. Harris (People's exhibit number 7); (3) the records of the accounts of the four aid recipients (People's exhibit numbers 2, 3, 4, and 5), which showed transactions on the Link cards for those accounts including withdrawals of aid funds at various ATM's; (4) employment records of defendant and Mr. Harris listing their employee ID numbers and computer user IDs and the level of their access to the DHS computer systems (People's exhibit number 6); and(5) a report of activities connected to defendant's computer user ID from January 1, 2005, to March 1, 2009 (People's exhibit number 8).

¶ 6 Ms. Givens testified that, in 2007 and 2008, she was the local office administrator of the Austin DHS office. During that time, Ms. Givens supervised about 45 people at that office, including defendant and Mr. Harris, who were both employed as caseworkers.

¶ 7 A DHS caseworker creates individual accounts for persons who receive aid through government programs. Each aid recipient is issued a Link card, which is in essence "an ATM debit card." A DHS supervisor or caseworker loads the appropriate amount of funds, which varies for each individual depending on the benefits they receive, onto the Link cards; although a typical transfer amount can range from \$10 to \$40, it could be as much as \$100. Ms. Givens had never seen an amount near \$1,000 placed on an account as an individual transfer of funds. An aid recipient may withdraw transferred funds by using the Link card at an ATM.

¶ 8 Ms. Givens testified that defendant had full access to every computer system used by DHS; in particular, he had the ability to change the password of another caseworker and, in doing so, he would be able to transact business using that employee's ID. Because DHS systems could not be accessed remotely, an employee performing transactions needed to do so "at the

physical office,” but could use any computer in the office after entering an employee ID number and password.

¶ 9 In December 2008, an aid recipient reported an issue with her Link card. Ms. Givens initiated an investigation and determined that “numerous amounts of money” had been placed on that recipient’s account, and “that it had been going on for *** months.” Ms. Givens initially suspected Mr. Harris of completing the questionable transactions because his employee ID was connected to many of them. She believed Mr. Harris had a drug problem. Ms. Givens testified that the investigation shifted away from Mr. Harris for several reasons. First, the attendance records of Mr. Harris (People’s exhibit number 7) showed that he was not working on certain of the dates in question and therefore could not have performed any transactions on those dates. Specifically, Mr. Harris’s attendance records for November and December 2008 showed absences from work on December 3, 4, and 5; tardiness throughout this time period; and 1.5 hours of vacation time on November 26. According to Ms. Givens, defendant was in the office on the days Mr. Harris was absent.¹ Further, on the dates when the suspicious transactions occurred, Mr. Harris’s employee password had been changed. Unlike defendant, Mr. Harris did “not have full access to everything” and did not have the ability to change an employee’s password.

¶ 10 Mr. Bardelas, the lead systems monitor for DHS, testified that each Link card has a unique number which is associated with the recipient’s account. Benefit funds may be “loaded” to an account by a caseworker, supervisor, or data-input operator and the transfers are recorded in the DHS systems. The DHS systems do not allow a transfer of funds in an amount greater

¹ Ms. Givens did not refer to a record of defendant’s attendance when giving this testimony and his attendance record was not admitted into evidence.

than \$999. The funds would generally be available for withdrawal two business days after being deposited into an account.

¶ 11 Mr. Bardelas explained that the DHS case management system records each transaction under an employee's ID number. Referring to DHS employee records (People's exhibit number 6), Mr. Bardelas testified that defendant's computer user ID was DHSRCAI and his employee ID number was 397886346, whereas Mr. Harris's computer user ID was DHS2341H and his employee ID number was 443902343.

¶ 12 Using the records admitted into evidence, Mr. Bardelas described a series of transactions involving the DHS accounts of the four aid recipients. The testimony of Mr. Bardelas and the records showed the following.

¶ 13 First, as to Ms. Taylor, on November 14, 2008, a person using an employee ID number of either 409610953 or 409810953 (the exhibit is not clear as to whether the fourth digit of the employee ID number is a "6" or an "8") changed Ms. Taylor's home address to the address of a DHS office located on Laramie Avenue in Chicago. On November 18, 2008, the status of Ms. Taylor's Link card was changed to "defective" and she was issued a new card by a person identified as "Boca VRU User."

¶ 14 On November 26, 2008, at 12:51 p.m., defendant's computer user ID was used to change Mr. Harris's password. Beginning at 12:58 p.m., a person using employee ID number 443802343² then made deposits to Ms. Taylor's account of \$990, \$985, and \$975, totaling \$2,950. The code listed for each of those transactions indicated the recipient had filed a successful appeal and "past benefits" had been awarded. Defendant's computer user ID was used

² This employee ID number was one digit off from the ID number which Mr. Bardelas initially had testified was the employee ID number of Mr. Harris based on People's exhibit number 6.

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again to change Mr. Harris's password at 3:04 p.m. Then when the funds transferred on November 26 became available for withdrawal, on December 2, 2008, between 2:22 a.m. and 2:23 a.m., three withdrawal transactions totaling \$2,100 were made using Ms. Taylor's Link card at an ATM located on Lake Street in River Forest.

¶ 15 Defendant's user ID was used to reset Mr. Harris's password on December 2, 2008, at 8:40 a.m. Shortly thereafter, between 8:53 a.m. and 8:55 a.m., a person using employee ID number 443802343 deposited funds of \$990, \$980, and \$975, in three separate transactions labeled "appeal decisions," to Ms. Taylor's account. On that same date, between 9:34 p.m. and 9:37 p.m., two withdrawal transactions totaling \$840 were made using Ms. Taylor's Link card at an ATM located on Madison Street in Forest Park. This amount is what would have been still available from the transfers made to Ms. Taylor's account on November 26, 2008.

¶ 16 On December 3, 2008, at 9:44 a.m., a person using an employee ID number of 328643177 changed Ms. Taylor's address to an address on Van Buren Street in Chicago. Beginning at 12:21 p.m., deposits of \$990, \$980, and \$975 were made into Ms. Taylor's account, totaling \$2,945. Those deposits were made under the code of "Load Emergency Auth." The records did not indicate the employee account used to make those transactions.

¶ 17 On December 5, 2008, between 2:31 a.m. and 2:35 a.m., when the December 3, 2008, transferred funds were available, Ms. Taylor's Link card was used to withdraw a total of \$2,940 in five transactions at an ATM located on Ogden Avenue in Berwyn. On December 8, 2008, the status of Ms. Taylor's card was changed to "damaged," and a new Link card was issued to her on December 12, 2008.

¶ 18 Mr. Bardelas testified to a similar series of transactions involving Ms. Hunter's account. On November 17, 2008, a person using employee ID number 328643177 changed Ms. Hunter's

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address to an address on Ridgeland Avenue in Oak Park. On December 1, 2008, the status of Ms. Hunter's Link card was changed to "defective" and her card was replaced. Several minutes after the new Link card was registered, its status was set to "defective," and a second card was registered.

¶ 19 On December 2, 2008, shortly after Mr. Harris password had been changed, beginning at 8:55 a.m., a person using employee ID number 443802343 made deposits of \$990, \$985, \$975, \$970, and \$965 into Ms. Hunter's account, totaling \$4,885. The deposits were coded as "Load Emergency Auth." At 11:32 a.m. on that same date, the status of Ms. Hunter's Link card was changed to "lost."

¶ 20 On December 4, 2008, a person using employee ID number 328643177 changed Ms. Hunter's address.

¶ 21 On December 5, 2008, at 3:24 a.m., an attempt was made to withdraw cash at an ATM using Ms. Hunter's Link card after a balance inquiry was made. The ATM transaction history indicated that the card used was a "lost card." On December 5, 2008, at 4:33 p.m., the status of Ms. Hunter's Link card was changed to "damaged." Also at 4:33 p.m., defendant's computer user ID replaced Ms. Hunter's card with a new Link card.

¶ 22 On December 5, 2008, between 8:21 p.m. and 8:29 p.m., Ms. Hunter's Link card was used to withdraw a total of \$2,800 in four transactions at an ATM located on Ogden Avenue in Berwyn which was several blocks away from the ATM that had been used to access Ms. Taylor's card earlier that day. At 9:06 p.m. on December 5, 2008, Ms. Hunter's Link card was used to withdraw a total of \$1,800 in three transactions from an ATM located on Cermak Road in Berwyn. Several hours later, at 12:29 a.m., on December 6, 2008, Ms. Hunter's card was used to withdraw \$260 from an ATM located on North Avenue in Chicago. The withdrawals of

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December 5 and 6, 2008, totaled close to the total amount of funds transferred to the account on December 2, 2008. On December 16, 2008, the status of Ms. Hunter's Link card was changed to "lost," and a new card was registered for her account.

¶ 23 Mr. Watkins testified that, in 2008, he lived on Latrobe Avenue in Chicago. In November or December 2008, Mr. Watkins contacted a caseworker at the Austin DHS office to report that he had problems using his Link card. Although Mr. Watkins was told that a new card would be mailed to him, he did not receive it until one or two months later. Mr. Watkins usually received \$18.76 per month on his Link card, along with \$27 in SNAP benefits. Mr. Watkins never requested a change of address for his account or emergency funds and never had access to any amount approaching \$1,000 on his Link card. He did not know defendant.

¶ 24 The evidence pertaining to Mr. Watkins's account showed the following transactions. On November 14, 2008, a person using employee ID number 856273256 changed Mr. Watkins's address to that of the Austin DHS office. At 11:36 a.m. on November 18, 2008, the status of Mr. Watkins's Link card was changed to "defective," and a person identified as "Boca VRU User" activated a new card. At 12:05 p.m. that same day, the new card was registered to Mr. Watkins's account.

¶ 25 On November 26, 2008, after Mr. Harris's password had been changed, beginning at 12:56 p.m., deposits of \$990, \$980, and \$985 were made to Mr. Watkins's account totaling \$2,955. As with the deposits made to Ms. Taylor's account, those transactions were coded as "appeal decisions" and were made using employee ID number 443802343. At 4:35 p.m. on December 1, 2008, a person identified as "Boca VRU User" performed an action that was documented as "Change PIN Client Select" on Mr. Watkins's Link card. Then on December 2, 2008, when the November 26, 2008 transfers became available, between 1:22 a.m. and 1:25 a.m.,

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Mr. Watkins's Link card was used to withdraw a total of \$2,100 in three transactions at an ATM located on North Avenue in Chicago which was several blocks away from the ATM that was used to access Ms. Hunter's card.

¶ 26 On December 2, 2008, after Mr. Harris's password had been changed, between 8:49 and 8:50 a.m., a person using the employee ID number of 443802343 made three deposits to Mr. Watkins's account, in the amounts of \$990, \$985, and \$975, totaling \$2,950. When there would have been remaining funds from the November 26, 2008 transfers, at 9:55 p.m., Mr. Watkins's Link card was used to withdraw \$500 at an ATM located on Madison Street in Forest Park, the same address where Ms. Taylor's Link card had been used between 9:34 p.m. and 9:37 p.m. that same night. At 9:56 and 9:57 p.m., additional attempts were made to withdraw funds using Mr. Watkins's Link card, but those requests were denied based on insufficient funds.

¶ 27 Defendant's computer user ID was used at 9:18 a.m. on December 3, 2008 to change Mr. Watkins's address back to the Latrobe Avenue address. At 12:10 p.m., deposits in the amounts of \$990, \$985, and \$975 were made to his Link card account.

¶ 28 On December 5, 2008, between 2:05 a.m. and 2:13 a.m., when the funds from the December 2, 2008 transfers would be available, Mr. Watkins's Link card was used to withdraw a total of \$3,280 in five transactions at the same Berwyn ATM where Ms. Hunter's Link card was used later that day. On December 8, 2008, an ATM withdrawal was attempted using Mr. Watkins's Link card that had been designated as "defective" on November 18, 2008.

¶ 29 Mr. Edmonson testified that, in 2008, he lived on Austin Boulevard in Chicago and, at that time, he received approximately \$100 per month on his Link card. The money on his card never exceeded \$1,000. He did not know defendant.

¶ 30 The evidence pertaining to Mr. Edmonson's account showed the following transactions. On November 14, 2008, a person using an employee ID number of either 409610953 or 409810953 (exhibit not clear) changed Mr. Edmonson's address to that of the Austin DHS office. On November 18, 2008, the status of his Link card was changed to "defective," and he was issued a new card by a person identified as "Boca VRU User."

¶ 31 On November 26, 2008, between 12:58 p.m. and 1:02 p.m., after Mr. Harris's password had been changed, a person using the employee ID number of 443802343 made deposits of \$990 and \$980 onto Mr. Edmonson's Link card, totaling \$1,970; these deposits were coded "appeal decisions." At 12:20 p.m. on December 1, 2008, those deposits were loaded onto Mr. Edmonson's Link account under the code of "Load Emergency Auth." At 4:45 p.m., a "Change PIN Client Select" action was performed on Mr. Edmonson's Link card.

¶ 32 On December 2, 2008, between 1:49 a.m. and 1:54 a.m., when the November 26, 2008 transfers were available, five withdrawals were made using Mr. Edmonson's Link card, totaling \$1,700, from an ATM located on North Avenue in Chicago. Ms. Hunter's Link card was accessed at this same ATM on December 6, 2008.

¶ 33 At 8:51 a.m. on December 2, 2008, a person using the employee ID number of 443802343 made deposits of \$990, \$980, and \$976 to Mr. Edmonson's account, totaling \$2,945. At 9:27 p.m., two withdrawals attempts were made using Mr. Edmonson's Link card totaling \$1,100 from an ATM location that is not shown in the record. Those transactions were denied based on insufficient funds. At 9:53 p.m., Mr. Edmonson's Link card was used to withdraw \$260 at an ATM located on Madison Street in Forest Park where, about 15 minutes later, Ms. Taylor's and Mr. Watkins's Link cards were also accessed.

¶ 34 At 9:20 a.m. on December 3, 2008, defendant's computer user ID was used to change Mr. Edmonson's address back to the Austin Boulevard address. At 12:20 p.m., deposits of \$990, \$980, and \$976 were loaded onto Mr. Edmonson's Link card, totaling \$2,945, under the code of "Load Emergency Auth."

¶ 35 On December 5, 2008, between 2:57 a.m. and 3:01 a.m., Mr. Edmonson's Link card was used to withdraw a total of \$2,940 in five transactions where, about 30 minutes earlier at the same ATM on Ogden Avenue in Berwyn, Ms. Taylor's card was used. On December 7, 2008, an ATM withdrawal was attempted using Mr. Edmonson's Link card that had been designated as "defective" on November 18, 2008. On December 8, 2008, the status of his Link card was changed to "damaged," and a new card was issued to him.

¶ 36 Referring to the report of activity under defendant's computer user ID (People's exhibit number 8), Mr. Bardelas concluded that all of the transfers on November 26, 2008, and on December 2, 2008 which resulted in excessive funds being placed on the four aid recipients' accounts, occurred after Mr. Harris's password had been changed using defendant's computer user ID. Mr. Bardelas testified that the total amount of the funds then withdrawn from the four accounts using the Link cards was \$21,600. During the relevant time period, defendant's password was never reset or changed.

¶ 37 Mr. Bardelas and the State also engaged in the following discussion:

"Q Please turn to People's [exhibit number] 6, [p]age 2, would you identify the employee ID number on that page?

A Yes. It's from the administrative sub-system, identifies a Harold Harris, employee ID number 443902343, and the user ID is DHS2341H.

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Q Is it the same employee ID number that you testified to in People's [exhibit number] 1, [p]ages 1 through 7?

A Yes it is.

Q All of the transactions that you testified to were done under the number of Harold Harris then?

A Yes sir."

However, the employee ID number in People's exhibit number 1 was 443802343 and not 443902343.

¶ 38 Ms. Barnes testified that, in December 2008, she worked as an office clerk at the Austin DHS office and defendant was her supervisor. As part of her duties, Ms. Barnes would assist an aid recipient who came to the office to report lost, stolen, or damaged Link cards. Ms. Barnes would then register a new Link card to the recipient and give the recipient that card with a sealed personal identification number (PIN) packet. Ms. Barnes testified that, during 2008, she received several requests from defendant to register new Link cards for his clients. She could not, however, recall specifically when those requests were made. Pursuant to those requests, Ms. Barnes registered new Link cards and gave those cards with the sealed PIN packets to defendant so that he could mail them to the recipients. Ms. Barnes did not know whether defendant had mailed the cards. She did not identify those recipients.

¶ 39 Ms. Davis testified that, in 2008, she worked as an office assistant at the Austin DHS office and that defendant was one of her supervisors. Ms. Davis stated that she "probably" had completed address changes for recipients in November or December 2008 at the request of defendant. She also testified that, if an aid recipient had no home address, that person's Link card would be mailed to the DHS office and kept in a specific "slot" for that individual to pick up.

The employee ID numbers and user ID numbers of Ms. Barnes and Ms. Davis were not entered into evidence.

¶ 40 The defense presented no witnesses. However, the parties stipulated that, on November 25, 2008, Oak Park police officer, Joan Wojcic, went to 1100 North Ridgeland Avenue where she recovered pieces of mail addressed to Freddie Gilbert, Joey Smith, and Lavergne Hunter Smith, and that those items included a “DHS Public Aid Assistant Card Link debit card,” and five Christmas cards. Mr. Gilbert was an aid recipient and DHS records showed him having that address, based on an address change made on November 14, 2008. In 2012, those items were tested for fingerprints and defendant’s fingerprints were not present.

¶ 41 In closing argument, the State asserted that “employee ID [number] 443802343” was the number related to the questionable fund transfers. The State further argued that ID number 443802343 belonged to Mr. Harris. The State described Mr. Harris as the “perfect fall guy” for defendant’s scheme in that Mr. Harris was a “[q]uestionable employee with a spotty work history.”

¶ 42 The trial court found defendant guilty of theft and official misconduct. The trial court sentenced him to 180 days in jail and 4 years’ probation. The court also ordered him to pay restitution of \$21,600. Defendant now appeals.

¶ 43 ANALYSIS

¶ 44 On appeal, defendant’s first assignment of error is that the evidence was insufficient to prove him guilty of theft and official misconduct.

¶ 45 The parties disagree about the applicable standard of review as to our review of the evidence. Defendant contends that the standard of review should be *de novo* because it is undisputed that the transactions, which form the basis of the prosecution, took place. According

to defendant, because so much of the evidence was in the form of exhibits, we need not defer to the trial court's determination on the credibility of the witnesses and thus *de novo* review is appropriate. The State, on the other hand, urges us to apply the familiar standard set forth in *Jackson v. Virginia*, 443 U.S. 307, 319 (1979): whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. See *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (where the court adopted the standard from *Jackson*). We agree with the State.

¶ 46 “*De novo* review does not apply in every case where the facts are not in dispute.” *People v. Ford*, 2015 IL App (3d) 130810, ¶ 16. Rather, if “a reasonable person could draw different inferences from the undisputed facts at issue,” the *Jackson* standard of review is appropriate. *Id.*; see also *People v. Zaibak*, 2014 IL App (1st) 123332, ¶ 48 (although defendant argued that *de novo* review was appropriate because he was “not asking th[e] court to reweigh the evidence or make a credibility determination[,]” the court nonetheless applied “the *Jackson* standard of review” to determine whether the evidence was sufficient). In this case, the majority of defendant's contentions involve an assessment of the different conclusions to be reached from the exhibits offered into evidence; specifically, whether Mr. Harris, or someone other than defendant, performed the transactions constituting the basis of the theft of funds. Moreover, the business records were not the only evidence presented at trial; several witnesses testified and there were different inferences to be drawn from their testimony.

¶ 47 Accordingly, we consider whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offenses beyond a reasonable doubt. *Jackson*, 443 U.S. at 319; *Collins*, 106 Ill. 2d at 261. This court will only reverse defendant's conviction if “ ‘the evidence is so improbable or unsatisfactory that a

reasonable doubt of the guilt *** remains.’ ” *Ford*, 2015 IL App (3d) 130810, ¶ 17 (quoting *People v. McLaurin*, 184 Ill. 2d 58, 79 (1998)).

¶ 48 Having determined the proper standard of review, we do note that the principle evidence in this case was computer generated business records. This court has noted that, although we must give deference to the trial court’s determination as to credibility determinations or observations of demeanor, “where certain evidence does not involve credibility determinations or observations of demeanor, the deference afforded is logically less.” *People v. Rivera*, 409 Ill. App. 3d 122, 139 (2011) (reversed on other grounds *People v. Rivera*, 2013 IL 112467).

¶ 49 To sustain the conviction of theft pursuant to section 16-1(a)(1)(A) of the Code (720 ILCS 5/16-1(a)(1)(A) (West 2008)), the State was required to show that defendant “knowingly *** [o]btain[ed] or exert[ed] unauthorized control over property of the owner,” DHS, and that he “[i]ntend[ed] to deprive [DHS] permanently of the use or benefit of the property.”

¶ 50 To sustain the conviction of official misconduct, the State was required to establish that defendant committed misconduct “when, in his official capacity or capacity as a special government agent, he *** [k]nowingly perform[ed] an act which he [knew was] forbidden by law to perform; or *** [w]ith intent to obtain a personal advantage for himself ***, he perform[ed] an act in excess of his lawful authority.” 720 ILCS 5/33-3(a) (2), (3) (West 2015).

¶ 51 A conviction may rest on circumstantial evidence “as long as ‘the elements of the crime have been proven beyond a reasonable doubt.’ ” *People v. Smith*, 2014 IL App (1st) 123094, ¶ 13 (quoting *People v. McGee*, 373 Ill. App. 3d 824, 832 (2007) (citing *People v. Hall*, 194 Ill. 2d 305, 330 (2000))). It is sufficient if “all the evidence taken together” satisfies the trier of fact beyond a reasonable doubt of the defendant’s guilt. *People v. Campbell*, 146 Ill. 2d 363, 380 (1992). In weighing evidence, “ ‘the trier of fact is not required to disregard inferences which

flow normally from the evidence before it, nor need it search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt.’ ” *People v. Hardman*, 2017 IL 121453, ¶ 37 (quoting *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009)).

¶ 52 Defendant asserts that no one saw him complete any of the transactions at issue and that DHS’s business records failed to establish he was the person who: made all of the address and Link card status changes associated with the accounts of the four aid recipients; deposited funds into said accounts; and withdrew the funds at various ATMs. He also maintains that the State failed to prove that it was actually Mr. Harris’s employee ID number that was used to make the key transfers to the accounts of the four aid recipients. Furthermore, he points out that Mr. Harris was at the Austin DHS office on November 26 and December 2, 2008, when the funds were transferred and, thus, had the ability to transfer the funds.

¶ 53 In response, the State does not dispute these contentions. Instead, the State argues that it proved defendant’s guilt because all of the transfers conducted on November 26, 2008 and December 2, 2008, “took place shortly after changes to [Mr.] Harris’s password,” those changes “were performed using defendant’s ID number,” and the transfers were made using “[Mr.] Harris’s account and defendant’s password was not changed on those dates.”

¶ 54 The State presented evidence as to a scheme that resulted in the transfer of aid funds to the accounts of the four aid recipients and that those funds were later withdrawn at ATMs using the Link cards of the four aid recipients. The State showed that, on November 26 and December 2, 2008, aid funds of a questionable amount were transferred to the accounts of the four aid recipients after their Link cards had been reported as damaged, defective, or lost, and their addresses had been changed in the DHS system and, thus, arguably hindering the receipt of their new Link cards. After the funds were withdrawn, the addresses of the four aid recipients were

changed back and again new Link cards were issued. Reviewing each step of the scheme, we find the evidence deficient to prove defendant guilty of the charges beyond a reasonable doubt.

¶ 55 Several employee ID and computer numbers were connected to the transactions resulting in the changes of address and the statuses of Link cards. There was no evidence that defendant's employee ID was used to change the passwords of those employees prior to those transactions.

¶ 56 As a supervisor, defendant did have the authority and did direct Ms. Barnes to issue new Link cards to aid recipients and some of those replacement Link cards and PIN information were given directly to defendant. Ms. Barnes, however, did not testify that defendant instructed her to do so for the four aid recipients. There was no evidence that Ms. Barnes had performed the transactions which resulted in the revocation and reissuance of the Link cards on the dates in question here at the direction of defendant.

¶ 57 Defendant also had the authority and, at times, did instruct Ms. Davis to change the addresses of aid recipients. However, she testified only that it was probable that defendant asked her to change addresses for aid recipients in November and December 2008. Again, there was no evidence that defendant's requests may have been related to the four aid recipients and no evidence that the address changes were made by Ms. Davis on the dates in question.

¶ 58 The only other evidence as to the issue of changes of addresses and Link card statuses was that the records showed defendant's computer ID was used on December 3, 2008, to change the addresses of Mr. Watkins and Mr. Edmonson and on December 5, 2008 to issue a new Link card to Ms. Hunter. Mr. Watkins testified that he never requested a change of address and did not know defendant. This evidence was not sufficient to support a conclusion that defendant was the person responsible for all of the other address and Link card status changes.

¶ 59 The questionable transfers occurred on November 26 and December 2, 2008. The transfers were performed after Mr. Harris's password had been changed. Defendant had full access to the DHS computer systems and had the authority to change the password of another employee in order to perform transactions, including fund transfers, under that employee's identification number. The record showed that defendant's computer ID was connected to the resetting of Mr. Harris's password on those dates. The evidence, however, also showed that defendant had reset the passwords of employees of the Austin DHS office, including that of Mr. Harris, frequently and regularly on other dates as part of his duties. And, there were at least three other employees at the Austin DHS office with such authority.

¶ 60 Mr. Bardelas testified that defendant's password was not changed on any of the days involving the transactions which formed the basis of the scheme to steal the funds. There is some circumstantial evidence that defendant may have performed the transfers. Defendant would have needed to be at the office in order to reset the passwords and then perform the transfers. There is insufficient proof that defendant was present at the DHS Austin office on November 26 and December 2, 2008. We have only the bare testimony of Ms. Givens that defendant was in the office on dates when Mr. Harris was *not*. She did not testify to specific dates and did not refer to defendant's attendance records. Defendant's attendance records were not admitted into evidence. However, Mr. Harris was absent from the office for only 90 minutes on November 26, 2008, and was not absent on December 2, 2008, when the transfers were made. Thus, the testimony of Ms. Givens--that defendant was in the office on days when Mr. Harris was not—does not tend to establish that defendant was in the office on the specific dates of November 26 and December 2, 2008.

¶ 61 We also agree with defendant that the evidence is not clear that Mr. Harris's employee ID number was used for the illicit transfers. The transfers made on November 26 and December 2, 2008, as set out in the State's case, were performed using the employee ID number of 443802343. However, Mr. Bardelas, referring to People exhibit number 6, initially testified that Mr. Harris's employee ID number was 443902343.³ However, when testifying as to the transfers of funds to the four aid recipients, Mr. Bardelas, using People's exhibit number 1, said the November 26 and December 2, 2008, transfers were associated with employee ID number 443802343. Then, after testifying to all of the various transactions, Mr. Bardelas, looking at People's exhibit number 6, again testified that Mr. Harris's employee ID was 443902343, and that the transfers were performed under Mr. Harris's employee ID. The evidence and testimony was conflicting as to the exact employee ID number of Mr. Harris. The State, at trial, did nothing to explain the conflict and, on appeal, does not address or acknowledge the discrepancy. Yet the discrepancy seriously undermines the very core of its case that, after Mr. Harris's password was changed by someone using defendant's employee ID, someone using Mr. Harris's employee ID then transferred funds.

¶ 62 Finally, even if Mr. Harris's account was used to perform the transfers, it does not follow that defendant was the actual person who used Mr. Harris's account. Mr. Harris was at work on November 26 and December 2, which is evidence suggestive that the transfers were completed by Mr. Harris.

³ Defendant, in his briefs, posits that it may be possible to read that exhibit as listing Mr. Harris's employee ID number as 443802343 or 443902343; that is, whether the fourth digit of Mr. Harris's employee ID number was an 8 or a 9. However, Mr. Bardelas, after looking at People's exhibit number 6, twice testified that the employee ID number of Mr. Harris was listed there as 44390243.

¶ 63 Finally, as to the withdrawal of funds from each of the four aid recipient accounts at ATMs, there was no direct evidence that defendant received or possessed the replacement Link cards. The testimony of Ms. Barnes—that she had, on occasions, given defendant replacement Link cards—lacked any specificity as to dates and identities of the aid recipients. Moreover, there was no evidence, direct or circumstantial, that defendant was responsible for the withdrawal of the funds.

¶ 64 In light of our consideration that the evidence was insufficient to support defendant's convictions for theft and official misconduct, we need not consider his arguments as to the one-act one-crime doctrine.

¶ 65 In conclusion, because the evidence was insufficient to support defendant's convictions, we reverse those convictions.

¶ 66 Reversed.