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BACKGROUND

¶ 4 Defendant and several codefendants were charged with delivery of 900 or more grams of a controlled substance (cocaine). Prior to trial, defendant filed a discovery motion requesting, *inter alia*, a list of persons the State might call as witnesses and their addresses. The State tendered to defendant's counsel a number of items in discovery, including a compact disc of a consensual overhear as well as a disclosure form from the Drug Enforcement Administration (DEA) listing the confidential informant's name, money paid to him, benefits he had received, criminal record, information regarding the cases that he worked with DEA in the past, and additional information. The State also tendered some information from Chicago Police Department (CPD) files.

¶ 5 Before trial, defendant's attorney and counsel for codefendants asked the State to provide the informant's current address. The State objected to releasing the informant's address but informed the court that counsel for the DEA would make the confidential informant available to the attorneys for all codefendants should they want to interview the informant prior to trial. A pretrial hearing was held on the joint motion by defendant and codefendants to obtain the informant's home address and other personal information. Chicago police sergeant Noel Sanchez (Sanchez) testified he was assigned to a DEA task force and was in charge of the cases there. He had worked with the confidential informant involved in this case and continued to work with that informant on several ongoing confidential cases being handled by both the CPD and the DEA, and the cases involved large quantities of narcotics. In Sanchez's opinion, revealing the informant's address would not only jeopardize the current investigations, it would also jeopardize the informant's safety in the narcotics business, "a very volatile and dangerous situation." The confidential informant was "an integral part in several of these ongoing investigations right now. If something detrimental were to happen to him, these cases would subsequently fall apart."

¶ 6 During cross-examination of Sanchez by an attorney for a codefendant, Sanchez testified that on possibly three previous occasions the informant's name has been given to the defense and that, as far as Sanchez was aware of, nobody had threatened the informant's life up to the present time. In that same cross-examination, the attorney stated the informant's name in open court. The attorney was admonished by the judge, who noted the informant's name had been released in confidence to the defense *in camera* and was not to be stated in court until the trial. At the conclusion of Sanchez's testimony, the court observed that the informant's name had been revealed and concluded, "I don't think I can trust personal information like his address. So I will not release it. *** As to the specific address, I'm not allowing it. It's obvious that even the name can't be kept secret in this case, so I will not let the address go out." The court observed that the State had said it would make the informant available to the defense attorneys "so they could question him for whatever they want."

¶ 7 Defendant's bench trial began 10 months later. On that date, the State filed a motion *in limine* asking that defendant be precluded, *inter alia*, from eliciting any testimony from the confidential informant, Fidel Sanchez, regarding his exact address. Before opening statements, defendant's trial counsel advised the court of his intent to ask the informant about other names he had used in the past as well as "where he lives and try to get some information about his [life's] situation so we can perhaps test his credibility." The court responded, "I'm not going to let you ask about his exact address."

¶ 8 At trial, the State's confidential informant introduced himself as Fidel Sanchez (Fidel) and testified he was 53 years old, originally from Mexico, and now living in Indiana. In 1982, he was arrested on a charge of failure to register a firearm, but the case was dismissed. He worked as a handyman, but he also worked with the DEA. Fidel's job was "to go out on the

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streets, bars, public places, and try to get information about drug activities" which he gives to the DEA and CPD. He had been involved in about 30 or 32 major drug cases.

¶ 9 A few days before December 13, 2006, Fidel had a telephone conversation with an individual named Pilo. Another individual had referred Fidel to Pilo to talk with him about obtaining 10 kilos of cocaine. Initially, Pilo said he could provide Fidel with the cocaine, but at a later date Pilo said he could not provide those kilos and referred Fidel to another individual, whom Fidel identified at trial as defendant. Fidel met with defendant and Pilo a few days before December 13 at a tavern on Cherry and McDonough Streets in Joliet. On the following day, Fidel and defendant had a phone conversation to start planning how they were going to do the cocaine deal.

¶ 10 On the morning of December 13, 2006, Fidel and defendant conversed again by phone. Defendant advised Fidel that the cocaine deal would take place that day in Joliet. Fidel contacted the DEA agents and CPD officers and met with them at the Hilton Garden Inn in Tinley Park to plan an undercover operation. The agents supplied Fidel with an undercover CPD vehicle, a white Dodge Intrepid. Inside the Intrepid was a hidden compartment, referred to as a trap, which was used to hide contraband such as drugs or money. Fidel, who had used that vehicle previously, looked inside the trap that day and saw that it was empty.

¶ 11 Fidel drove to a K-Mart in Joliet where he phoned defendant, calling the same phone number he had used to speak with defendant previously. Defendant instructed Fidel to go back to the tavern in Joliet. About 10 or 15 minutes later, around noon, Fidel arrived at the tavern in the white Intrepid. Fidel phoned defendant again. Defendant asked Fidel whether he was driving the white Intrepid. When Fidel said yes, defendant said he was behind Fidel in a black car and instructed Fidel to follow the black car when it passed him. When the black car passed, Fidel followed the car for a very short distance. Defendant drove the black car straight ahead

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one block and then turned right, and parked near an alley in the block after the right turn. Fidel parked the Intrepid behind him. Defendant exited the black car immediately, and a male Hispanic crossed the street and met defendant. The two men conversed, but Fidel was not close enough to hear what they were saying. Then defendant waved at Fidel, signaling him to go around defendant's car and into the alley. Fidel obeyed, making a right turn into the alley. Defendant stood by a garage behind the house at the corner of the alley, opened the door of the garage, and waved Fidel to drive the Intrepid into the garage.

¶ 12 Defendant closed the garage door behind them and asked Fidel if he had the money ready. Fidel told defendant he did not have the money with him, but that it was close by. Defendant said he would be right back, and he left through the side door of the garage. Ten minutes later, defendant returned with a black leather bag and put the bag on the back seat of the Intrepid. Defendant told Fidel "that they only had 6 kilos." Fidel opened the black bag and counted six pieces. Fidel picked up one of the pieces. It was square and was wrapped in clear plastic, with a white powder inside. Fidel testified it looked like cocaine. He had seen kilos of cocaine about a hundred times and is familiar with how cocaine looked, smelled, and was packaged. That day he smelled a slight odor of cocaine from the six packages.

¶ 13 Fidel placed the cocaine in the trap within the Intrepid. As he was doing so, a third man, the male Hispanic whom Fidel had seen talking with defendant earlier, entered the garage and asked defendant and Fidel where the money was. Fidel told them the money was nearby and that he (Fidel) was going to take defendant with him to get the money. The third man said he did not like to do that, that he never let the cocaine go unless he got the money. Defendant told the third man not to worry, that "this is a goodie. I trust him and everything is going to be okay." Defendant told the third man to go back to the house and wait there. Fidel told the man

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defendant would be back in no more than 15 minutes. Fidel drove the Intrepid out of the garage with defendant in the passenger seat.

¶ 14 Fidel drove back to the Hilton Garden Inn, telling defendant they were going to meet Fidel's "money man" there. At the hotel, Fidel parked the car and went inside; defendant waited in the Intrepid with the cocaine. Fidel met Sergeant Sanchez inside the hotel and told him the cocaine was in the Intrepid. Sanchez went outside and Fidel waited in the hotel.

¶ 15 On cross-examination, Fidel testified that he was a legal resident of the United States with a green card. Fidel Sanchez was his legal name. At one time in the past he had his name legally changed, and he used aliases over the years. He was mainly self-employed during the last 10 years, but during one period had received a regular paycheck in Indiana under the name Fidel Sanchez. He worked as a handyman, making all sorts of minor home repairs, and in the previous year he made about \$1,500 or less in that capacity. He was paid \$78 in the month before trial for doing some painting for a man who owned some apartments. Some months earlier he did some inside carpentry work. However, the primary way he made his money was by giving the police people to arrest for alleged drug deals. He made \$190,000 doing this within the last 20 years. In the same period of time he made over \$20,000 as a handyman. He was also paid money for housing by the DEA prior to the instant case in 2006. Fidel lived in Indiana by himself; he had been without a family for some time.

¶ 16 Gambina was the name of the man who introduced Fidel to Pilo. During the transaction in this case, Fidel never knew defendant's name. Fidel also did not learn Pilo's name until after defendant's arrest.¹ Fidel testified he had talked to defendant by telephone several times leading up to the transaction, and he turned that phone number over to the police. Every time he spoke

¹ Jose Gambina was one of the codefendants in the instant case. "Pilo" was another codefendant, Adolfo Sandoval.

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to defendant, he notified the DEA about the call. After the arrest, Fidel believes he heard the name of the Hispanic man who had come to the garage and asked for the money; the name Lombera sounded familiar.² Fidel did not remember what happened to the black leather bag after he removed the six kilos from them and placed them in the hidden compartment in the Intrepid.

¶ 17 Blake Smith testified that he was a special agent for the DEA. On December 13, 2006, he was on duty as part of a surveillance team consisting of DEA special agents and CPD task force officers. At around noon on that date, he set up surveillance in Joliet involving a confidential source by the name of Fidel Sanchez. Smith observed Fidel drive into a parking lot of a tavern on the corner of Cherry and McDonough in Joliet. Fidel was driving a later model white Dodge Intrepid owned by the CPD; it contained a hidden compartment. Moments after Fidel arrived at the tavern, Smith saw Fidel leave that location in the Intrepid. Smith, who was on mobile surveillance in a covert vehicle, saw the Intrepid again moments later when Fidel drove the Intrepid into a garage at 509 Jasper Street in Joliet. Smith then set up a surveillance at the next cross street; he was unable to see the garage from there. Smith saw Fidel's white Intrepid about 10 or 15 minutes later when Fidel passed Smith's vehicle as he drove out of the area. Defendant was in the car with Fidel.

¶ 18 Smith had been told previously that an individual named Pilo may be involved in the investigation. He had also been told that a couple of weeks prior to this, a man named Gambina was involved in another transaction. When Smith had been briefed that morning, no one had mentioned the name Arreola. The house across the street from 509 Jasper was 506. That was the house from which Lombera was seen exiting. Lombera was later observed on the porch of 509. Smith kept a surveillance log, and it was the duty of all surveillance officers, including an

² Jesus Lombera was another codefendant in this case.

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agent in an airplane overhead, to report to Smith. There was nothing in the surveillance log about seeing defendant walk in or out of the garage with a black bag.

¶ 19 Sergeant Noel Sanchez, who had testified previously at the pretrial discovery hearing, testified that on December 13, 2006, as part of the narcotics investigation in this case, he and team members met at a hotel parking lot in Tinley Park to coordinate assignments and introduce the informant and his vehicle to the team. The operation was planned as a "buy bust" where the informant, Fidel, was to go to a location, get kilograms of cocaine, and return to the hotel with the cocaine, where Sergeant Sanchez would act in an undercover capacity as the buyer with the money for the cocaine. After that, all the individuals involved would be arrested.

¶ 20 Sanchez described the hidden compartment in the Intrepid as being operated with electronic equipment which moved the trap forward on hydraulics and opened the back seat by 12 to 13 inches, allowing somebody to store money or up to 30 or 40 kilos of cocaine. That morning at the hotel, Sanchez showed Fidel the car he would be driving, gave him the key, and showed him how the compartment operated. Sanchez made sure Fidel knew how to operate it. Before Fidel left, the trap was totally operational, and it was empty and clean.

¶ 21 At some point Fidel drove to Joliet to take part in the undercover operation. Moving surveillance followed Fidel, including an airplane. Sanchez monitored the radio, listening to the surveillance personnel who had surveillance on the tavern where Fidel was supposed to meet the target. Sanchez was also in direct cell phone contact with Fidel. At some point after Fidel arrived at the tavern, Sanchez received a cell phone call from him. "It was shortly after he arrived at the tavern. I knew via monitoring the radio, that he was being directed into a garage. It was from the garage that I believe that I received the phone call from him." Sanchez also received a phone call from Fidel after he left the garage, that Fidel was coming back to the hotel "to get the money, as the plan had called for him to return to get the money for the kilograms of

cocaine." At that time, Fidel told Sanchez that he had an individual in the car with him. Sanchez was waiting for him in the lobby of the hotel. Fidel parked directly in front, exited the vehicle, and approached Sanchez in the lobby. Fidel told Sanchez the kilograms of cocaine were in the car and that the subject was in the vehicle waiting for the money. Fidel remained in the hotel and Sanchez walked outside.

¶ 22 Sanchez was wearing a consensual overhear device which made a digital recording of everything that was said. He had tested the device before using it, and it was in working order. Sanchez walked to the Intrepid, opened the driver's door, and saw defendant in the passenger seat. Sanchez greeted defendant and asked him, "Is everything good? Is everything perfect?" Defendant replied, "Yes. Everything's good." When Sanchez suggested to defendant that they go count the money, defendant told Sanchez to just bring the money to him and added, "Tomorrow you'll arrange it with the girl over where they are at." Sanchez asked him, "you don't want to count the money?" Defendant replied, "Let me have it and I will deliver it *** Anyway, I feel it's all good. *** I trust you, you counted it right?" Defendant then asked Sanchez, "And where is the car?" Sanchez responded, "What car do you mean?" Defendant replied, "I could come back in another car." Sanchez told defendant he could put the money in a vehicle Sanchez had there, an Explorer. Defendant replied, "If you want, I'll wait here for you." When Sanchez realized defendant was not coming out of the Intrepid, Sanchez gave a pre-arranged arrest signal, and enforcement teams moved in and arrested defendant. At trial, Sanchez read from the transcript of the consensual overhear of the conversation between himself and defendant. Officer Zdanys recovered the six kilograms of cocaine from the Intrepid, and Sanchez was present when it was inventoried. Sanchez was surprised when defendant asked about a car when Sanchez spoke with him. Sanchez did not remember whether there was a black bag with handles inside the car and there appeared to be no black bag in inventory.

¶ 23 Sanchez was aware Fidel was a confidential informant. As a DEA informant, Fidel was paid for narcotics recovered in an investigation. He was not paid based on the number of defendants arrested nor for the prosecution of defendants. Sanchez had worked with Fidel numerous times. Sanchez testified that the agents' initial belief was that a fellow by the name of Pilo was involved in the transaction on December 13. "We were told that [Pilo] was the one who arranged the delivery. Whether he was actually the source, I don't know." Sanchez did not remember whether Fidel told him that it was December 12 or the day before when Pilo said he could get only 6 kilos of cocaine instead of 10. Before the December 13 transaction, Fidel had told Sanchez and his agents that he was talking to a man by the name of Pilo and also to a heavy-set man he had met in a tavern. The individual Fidel had referred to as the heavy-set man was defendant, but Fidel never referred to that man as the source of the drugs. The first time Sanchez learned defendant's name was on the day of arrest. To Sanchez's knowledge, defendant did not "surface" in the investigation until Sanchez saw defendant sitting in the Intrepid. But Sanchez was aware prior to arresting the defendant that Fidel had had phone conversations with numerous individuals regarding the purchase of kilos of cocaine.

¶ 24 Sanchez had no record of a cell phone having been recovered from defendant. A defense exhibit, a police arrest report, was shown to Sanchez, who testified the information regarding items in defendant's possession was not on the report. Sanchez stated: "The only thing it says here is the property information for Mr. Rigoberto Arreola is not available through this automated arrest system. So I can't tell you if he had one at the lock up or not." According to Sanchez, if defendant went to the lockup with his belongings, everything was returned to him after he went to bond court – "his shoe strings, belt, money in his pocket, wallet, things of that nature, all of the things of that nature probably would be his and was returned to him." Sanchez testified that Fidel advised the agents of defendant's cell phone number, but Sanchez did not

personally take that number. Sanchez further explained that "because everything was happening at a quick pace that day, I don't know if they did anything with that number other than be informed this is the number he was calling."

¶ 25 The parties stipulated to the chain of custody and chemical composition of the recovered substance, six wrapped bricks containing a white powder of suspected cocaine which forensic analysis established to be 5,970 grams testing positive for the presence of cocaine.

¶ 26 After the State rested, Officer David Zdanys testified for the defense that the arrangements that had been made were that the man known as Pilo would make a delivery through the informant Fidel on December 13, 2006. On December 13, an individual whom Zdanys later learned was Lombera was seen at 506 and 509 Jasper in Joliet. To the best of Zdanys's knowledge, Lombera was the same individual who had been seen walking across the street from 506 Jasper to a garage located at 509 Jasper. After Lombera was arrested, Zdanys had a conversation with Lombera, who was one of the individuals Fidel told Zdanys he met with in the garage. As Zdanys did not speak Spanish, the group supervisor from DEA spoke with Lombera. It was related to Zdanys by the Spanish-speaking agents that Lombera said he had more cocaine, two or three kilos of cocaine, back at the house. Lombera gave a consent to search, took them to the house, and additional kilos of cocaine were recovered.

¶ 27 The parties stipulated to further testimony, namely, that Officer Zdanys conducted surveillance and saw the confidential informant, Fidel, drive his car and enter the garage on Jasper. Zdanys did not see defendant getting out of a black SUV and did not see defendant meeting with the man identified as Lombera in the street. He did not see defendant directing Fidel into the garage. After Fidel drove into the garage, it was only after several minutes that Zdanys observed Lombera crossing the street from 506 Jasper and entering the garage at 509 Jasper. None of his surveillance team observed any meeting between Lombera and defendant in

the street in front of 509 Jasper. The surveillance team did see the informant and a black SUV both parked out in front of 509, but defendant was not observed leading Fidel's Intrepid into the garage.

¶ 28 In finding defendant guilty of delivery of the cocaine, the trial court stated it had viewed the testimony of Fidel with skepticism because he was a paid informant, but concluded that Fidel's version of the facts was sufficiently corroborated to establish defendant's guilt beyond a reasonable doubt. The court sentenced defendant to the minimum sentence of 15 years in prison. This appeal followed.

¶ 29 ANALYSIS

¶ 30 On appeal, defendant contends initially that the evidence failed to establish his guilt beyond a reasonable doubt where his conviction rested on the uncorroborated testimony of a paid police informant who had a strong financial motive to fabricate his testimony.

¶ 31 We review a challenge to the sufficiency of the evidence in a criminal case to determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Brown*, 388 Ill. App. 3d 104, 107 (2009). A reviewing court will not reverse a conviction unless the evidence is so improbable, unsatisfactory or inconclusive that it creates a reasonable doubt of the defendant's guilt. *People v. Collins*, 214 Ill. 2d 206, 217 (2005). It is not the function of this court to retry the defendant. *People v. Smith*, 185 Ill. 2d 532, 541 (1999).

¶ 32 To sustain a conviction for the unlawful delivery of a controlled substance, the prosecution was required to prove that defendant knowingly delivered 900 or more grams of a substance containing cocaine. 720 ILCS 570/401(a)(2)(D) (West 2006). Delivery is defined as "the actual, constructive or attempted transfer of possession of a controlled substance, with or

without consideration, whether or not there is an agency relationship." 720 ILCS 570/102(h) (West 2006); *Brown*, 388 Ill. App. 3d at 108.

¶ 33 The evidence adduced at defendant's trial included testimony that Fidel, the paid police informant, left Tinley Park with an empty compartment in an undercover police vehicle, a white Intrepid. About 10 or 15 minutes later he arrived at a Joliet tavern, and from there he followed a black car 1½ blocks to 509 Jasper Street, where he entered a garage off the alley next to that address. About 15 minutes after that, Fidel drove his vehicle out of the garage and to a hotel in Tinley Park where Sanchez and other officers were waiting. At that time the Intrepid contained Fidel, defendant, and six kilos of cocaine. In a conversation covertly recorded by Sanchez, defendant acknowledged everything was good and stated he would wait for the money. Defendant told Sanchez, "I trust you, you counted it, right?" We believe the evidence sufficiently established that defendant knowingly delivered 900 or more grams of cocaine.

¶ 34 Defendant raises two arguments in support of his claim that his guilt was not established beyond a reasonable doubt: (1) Fidel's testimony lacked corroboration, and (2) Fidel, who had received \$190,000 in the previous 20 years as a paid informant, had a motive to lie.

¶ 35 Defendant asserts that his conviction cannot be upheld where it rested solely on the uncorroborated testimony of a paid informant. Defendant contends that he was never mentioned to the police before the actual delivery of the cocaine, Fidel's phone conversations with defendant during that period were not corroborated, and no inventory document was introduced at trial to show that defendant was in possession of a cell phone when arrested. We note that these same arguments were presented to the trial court below, which was in the best position to weigh and evaluate them. Moreover, the record indicates that defendant's involvement in the narcotics transaction began shortly before the actual delivery and his participation was not clearly known to the authorities until the day of the delivery. Sergeant Sanchez testified that he

and the other agents had believed that Pilo was the one who was arranging the delivery. Sanchez never saw defendant nor knew his name before Fidel and defendant drove up to the hotel with the cocaine in the Intrepid's hidden compartment. Prior to the delivery date, Fidel had told Sanchez and other agents that he was talking to both Pilo and another man whom he described as a heavy-set man and whom he later identified as defendant. Fidel himself did not know defendant's name until after defendant was arrested. Sanchez testified that before the day of the transaction, Fidel had advised agents of the cell phone number of the heavy-set man, but Sanchez himself did not personally receive the phone number.

¶ 36 Defendant contends there was a gap in the surveillance of Fidel in the Intrepid from the time he left the Tinley Park Hotel with an empty hidden compartment until he reached Jasper Street, casting doubt that the cocaine was placed in the Intrepid at the Jasper Street garage. The record belies defendant's argument. Sergeant Sanchez testified that when Fidel drove from Tinley Park to the tavern in Joliet, moving surveillance followed him, which included an airplane. Agent Smith testified that he was conducting surveillance from a mobile covert vehicle when he observed Fidel drive into the parking lot of the tavern and, minutes later, saw Fidel drive away. Just moments after that Smith saw the Intrepid drive into the garage. Based on this testimony, it would have been unreasonable for the court to have concluded that at some point before reaching the garage, Fidel drove the Intrepid to another location where he loaded the six kilos of cocaine into the Intrepid's hidden compartment.

¶ 37 Defendant contends that Fidel's testimony about what occurred on Jasper Street was not only uncorroborated, but that it was contradicted by officers who conducted surveillance there. Fidel testified that when he and defendant arrived on Jasper Street, defendant parked the black car in front of 509 Jasper, exited the car and spoke with an Hispanic male who came from 506 Jasper, and defendant then waved Fidel to drive the Intrepid into the alley and into the garage.

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This portion of Fidel's testimony was only partly corroborated by Agent Smith, who arrived only in time to see Fidel drive into the garage. Smith did not mention seeing defendant wave Fidel into the alley or into the garage. Smith then took up a position a block away, from which location he could not view the garage. Officer Zdanys testified only to the arrest of Lombera following the recovery of additional kilos of cocaine at Lombera's home on Jasper Street. However, the parties subsequently stipulated that Zdanys would also testify that he conducted surveillance on Jasper Street and saw Fidel drive his vehicle into the garage, but Zdanys did not see defendant exiting from the black SUV or see defendant speaking to Lombera on the street, and he did not see defendant wave Fidel into the garage. Further, Zdanys would testify that none of the surveillance team observed a meeting on the street between defendant and Lombera and did not see defendant directing the Intrepid into the garage. The stipulation also established that Zdanys would testify that the surveillance team did see Fidel's Intrepid and a black SUV both parked in front of 509 Jasper, but they did not see defendant leading the Intrepid into the garage off the alley.

¶ 38 We note that none of the agents observed defendant leave the garage and then return with a black bag, but that Zdanys did observe Lombera cross the street from 506 Jasper and enter the garage. However, there was an obvious gap in Zdanys's description of the surveillance. Neither in Agent Smith's testimony for the State nor Zdanys's testimony for the defense nor in the stipulation of what his further testimony might be was there evidence of where Zdanys or other surveillance team members were actually stationed or when they arrived at Jasper Street. Our reading of the record prompts us to agree with the trial court's conclusion that the surveillance of Fidel's actions on Jasper Street was not complete. Defendant correctly argues that Fidel's version of the events on Jasper were not fully corroborated. However, we cannot agree with defendant that the officers contradicted Fidel's testimony of those events.

¶ 39 Defendant also correctly asserts that there was no corroboration of defendant's actions during the delivery. None of the events in the garage was under direct surveillance. It was stipulated that several minutes after the Intrepid entered the garage, Zdanys saw a man (Lombera) cross Jasper Street and enter the garage. Defendant posits that Lombera may have brought the cocaine to the garage. But Zdanys did not see that man carry anything. Moreover, Lombera's presence in the garage corroborated Fidel's testimony that Lombera entered the garage to inquire where the purchase money was.

¶ 40 We do not deem the lack of corroboration of what occurred in the garage to be fatal to the court's guilty finding in light of other evidence. Not all of the actions were required to be under direct surveillance. Law enforcement officers' failure to observe an exchange between an informant and defendant has been held not to be fatal to the State's case. *People v. Lopez*, 187 Ill. App. 3d 999, 1005 (1989). A conviction may be affirmed if attendant circumstances lend credence to the informant's testimony. *Id.* See also *People v. Porter*, 13 Ill. App. 3d 437, 439 (1973); *People v. Hill*, 83 Ill. App. 2d 116, 122 (1967).

¶ 41 Defendant's reliance on *People v. Bazemore*, 25 Ill. 2d 74 (1962), is misplaced. In *Bazemore*, the defendant's conviction rested solely on the uncorroborated testimony of an addict informant, no drugs or marked money were found on the defendant, and the informant's testimony was suspect when he claimed for the first time at trial that there were witnesses to the narcotics sale. The instant case was not a situation where the informant could name anyone of his choice as the person who delivered the cocaine, because attendant circumstances lent credence to the informant's testimony inculcating defendant. The requirement that a defendant's guilt be proved beyond a reasonable doubt does not require us to disregard inferences flowing from the evidence. *People v. Schmalz*, 194 Ill. 2d 75, 81 (2000). Defendant was found in the Intrepid with the cocaine. Fidel's testimony, that defendant brought the cocaine to the car and

saw it placed in the trap, was somewhat corroborated by Sergeant Sanchez who testified that the trap in the Intrepid was empty when it left the presence of Sanchez and that a short time later he found defendant in the Intrepid with six kilos of cocaine in the trap. That defendant knowingly delivered the cocaine was corroborated in his conversation with Sanchez, which Sanchez recorded, that everything was fine and that defendant would wait in the car for the money. These attendant circumstances strongly lent credence to Fidel's testimony.

¶ 42 Defendant also argues that Fidel was not a credible witness where he was a career police informant whose payments from law enforcement authorities over 20 years and his continued cooperation with them gave him a strong financial motive to lie, that his answers to questions about his work history were evasive, and that his personal history was shrouded in mystery. We are aware that an informant's testimony should be treated with caution. *People v. Belknap*, 396 Ill. App. 3d 183, 206 (2011), citing *People v. Williams*, 65 Ill. 2d 258, 267 (1976). However, the credibility of informant testimony is a matter for the factfinder and can be the basis for a guilty verdict. *People v. Manning*, 182 Ill. 2d 193, 210-11 (1998). "Information from an informant whose identity is known to police and who is available for cross-examination is generally more credible than an anonymous tip or one from a confidential source." *People v. Allen*, 409 Ill. App. 3d 1058, 1071 (2011).

¶ 43 The trial court stated it was patently aware that Fidel was a paid police informant and viewed his testimony cautiously and with skepticism. The court concluded, however, that Fidel's testimony was credible because it was sufficiently corroborated by other State witnesses. When an informant's "testimony is partially corroborated, the reasonable doubt threshold can be overcome." *People v. Anders*, 228 Ill. App. 3d 456, 464 (1992). Fidel's testimony was "believable in light of circumstantial evidence, or otherwise credible under the surrounding circumstances." *Lopez*, 187 Ill. App. 3d at 1005. The testimony of informant Fidel was not so

unreasonable, improbable, or unsatisfactory so as to compel us to reverse the judgment of the trial court. After viewing the evidence in the light most favorable to the State, we conclude that any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt.

¶ 44 Defendant's second assignment of error on appeal is that the State's nondisclosure of Fidel's address prevented him from conclusively identifying Fidel and investigating his history. While defendant concedes he has forfeited review of his claim of error by failing to include it in his posttrial motion, we accede to defendant's request that we review this issue pursuant to the plain error rule. Ill. S. Ct. R. 615(a).

¶ 45 We note that the trial court made two separate rulings denying the defendant's request for the address of the informant. The first came 10 months before trial, during a hearing on a motion by defendant and codefendants for release of certain information, including the informant's address. During the cross-examination of Sergeant Sanchez, counsel for a codefendant stated the informant's name on the record, in spite of the fact the defendants had been told the name in confidence in a prior *in camera* hearing with the understanding the name would not be spread of record until trial. The court ruled that it would not allow release of the informant's address where "even the [informant's] name can't be kept secret in this case." Ten months later, on the day of trial, defendant's trial counsel again requested the informant's address. The court refused to allow counsel to inquire at trial about the informant's exact address but gave no basis for its ruling.

¶ 46 We conclude that the trial court's ruling, permitting the State to withhold the address of the informant, was error. The issue of disclosure of an informant's address has a long history. In *Alford v. United States*, 282 U.S. 687 (1931), the Supreme Court held that asking a State witness on cross-examination where he lived "was not only an appropriate preliminary to the cross-

examination of the witness, but *** was an essential step in identifying the witness with his environment, to which cross-examination may always be directed." *Id.*, 282 U.S. at 693. In *Smith v. Illinois*, 390 U.S. 129, 130-32 (1969), the Supreme Court cited *Alford* in reversing a conviction for sale of narcotic drugs where the petitioner was denied the right on cross-examination to ask the principal prosecution witness either his name or where he lived. Citing *Alford* and *Smith*, our supreme court has held that it is "well established that the address of a witness must be given on inquiry, unless to do so would jeopardize the personal safety of the witness." *People v. Manzella*, 56 Ill. 2d 187, 194 (1973), overruled on other grounds by *People v. Huckstead*, 91 Ill. 2d 536, 548 (1982).

¶ 47 In *Roviaro v. United States*, 353 U.S. 53, 62 (1957), the Supreme Court observed that deciding whether to require disclosure "calls for balancing the public interest in protecting the flow of information against the individual's right to prepare his defense." In *People v. Lewis*, 57 Ill. 2d 232 (1974), our supreme court upheld the balancing-of-rights test enunciated in *Roviaro*. The court ruled that in instances where the informant "was the only witness in a position to amplify or contradict the testimony of the government witnesses," the defense "must, at minimum, be allowed to interview the informer, and if he desires, call him as his own witness, and the informer should not be made to disclose his true name and address *if it can truly be shown that his life or safety is in jeopardy*." (Emphasis added.) *Lewis*, 57 Ill. 2d at 238. Thus, the *Roviaro* balancing test has been described as weighing a defendant's right to prepare a defense versus concern for the informant's safety. *People v. Woods*, 139 Ill. 2d 369, 378 (1990).

¶ 48 Weighing in on the side of an accused's right to prepare his defense is the extent of the informant's involvement in the charged offense. *People v. Bufford*, 277 Ill. App. 3d 862, 865 (1996). In the instant case, as in *Lewis* and *Roviaro*, the State's informant was the sole participant in the drug transaction charged, other than defendant and a purchasing officer. In

such cases, considerations of public fairness may overcome the State's privilege of protecting the informant. *People v. Woods*, 139 Ill. 2d 369, 380 (1990).

¶ 49 Balanced against the right of the accused is the concern for the safety of the informant. *Id.* at 378. Here, the State refused to reveal Fidel's address on the basis of the pretrial discovery hearing testimony of Sergeant Sanchez, who testified that he had worked with the confidential informant in this case and had continued to work with him on subsequent and ongoing cases involved large quantities of narcotics. In Sanchez's opinion, revealing the informant's address would not only jeopardize the current investigations but would also jeopardize the informant's safety in the narcotics business, "a very volatile and dangerous situation." On cross-examination, however, Sanchez stated that on possibly three previous occasions the informant's name had been given to the defense and that, as far as Sanchez was aware of, nobody had threatened the informant's life up to that time. Consequently, the State failed to make a specific showing that disclosure of Fidel's address would jeopardize his safety.

¶ 50 In *Bufford*, where the State also failed to articulate a specific basis for concern for the safety of the informant, we observed that "to give the balancing test any real meaning it is necessary to inquire into the specific nature of the threat in each case. *** To have an impact on the balancing test, more is needed than raising the general concern commonly understood to be present in cases involving confidential informants." *Bufford*, 277 Ill. App. 3d at 866-67. Here, as in *Bufford*, the balancing test comes down heavily in defendant's favor. We conclude that it was error not to disclose the address of the confidential informant.

¶ 51 Having concluded that error occurred, we must determine whether the error requires reversal of defendant's conviction. The plain error doctrine permits a reviewing court to consider unpreserved error when either (1) clear or obvious error occurred and the evidence in the case was closely balanced, or (2) the error was so serious that it affected fairness of the defendant's

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trial and challenged the integrity of the judicial process. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). Defendant invokes only the first prong of the plain-error analysis, contending that the evidence here was closely balanced. We conclude that plain-error relief is not warranted because the evidence was not closely balanced. Indeed, there is ample evidence that defendant knowingly delivered a controlled substance, including, importantly, the testimony of both the informant and Sergeant Sanchez that defendant and the cocaine were in the covert police vehicle, the Intrepid, when the car was driven to Sanchez to complete the delivery, and Sanchez's testimony that defendant made inculpatory statements to him during the course of the delivery.

¶ 52 For the reasons stated, we affirm the judgment of the trial court.

¶ 53 Affirmed.