

Nos. 1-09-2676)
1-09-2811)

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FIFTH DIVISION
February 25, 2011

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. 08 CR 21556
)	
ANTHONY FINLEY AND DAVID FERGUSON,)	The Honorable
)	John Thomas Doody, Jr.,
Defendants-Appellants.)	Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.
JUSTICES Howse and Epstein concurred in the judgment.

O R D E R

HELD: In consolidated appeal of defendants convicted of possession of a controlled substance with intent to deliver, evidence established several hand-to-hand drug transactions, and any inconsistencies in officers' testimony were resolved by trier of fact; the convictions of both defendants were affirmed.

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Following a joint bench trial, defendants Anthony Finley and David Ferguson were convicted of possession of a controlled substance with intent to deliver. Finley was sentenced to 3 years in prison, and Ferguson was sentenced to 42 months in prison. In this consolidated appeal, defendants challenge the credibility of the State's main witness, a police officer who observed several hand-to-hand transactions. We affirm.

At trial, Chicago police officer John Wrigley testified that at 3 p.m. on October 16, 2008, he was conducting surveillance of the area surrounding 1337 South Christiana Avenue in Chicago. He testified he was in an elevated location that he estimated was between 100 and 200 feet away from a vacant lot at 1317 South Christiana. The court had ruled prior to trial that Wrigley's surveillance position was not to be disclosed.

Officer Wrigley testified he observed defendants standing together from about 150 feet away and used binoculars "at times" during his surveillance. A person approached defendants and spoke to them. Finley rode a bike to the vacant lot on the same block, retrieved an item from a potato chip bag and returned. Finley handed the item to the person and accepted money. Wrigley observed two additional transactions with Finley and two transactions in which Ferguson retrieved the item and accepted

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money.

Officer Wrigley radioed enforcement officers and provided descriptions of both defendants, who were then detained. Wrigley testified that Ferguson rode away from the scene on a bike through an alley onto Spaulding Street where he was eventually detained. Wrigley lost sight of the actual detention. The parties stipulated \$239 in cash was recovered from Finley and \$21 from Ferguson.

Officer Thomas Beyna, an enforcement officer, testified that after receiving a call from Wrigley, he went to 1337 Christiana, detained Finley and retrieved a potato chip bag from the vacant lot. The bag contained a clear plastic bag and 10 foil packets, which the parties stipulated contained a total of .7 gram of heroin.

When Beyna was driving to the crime scene on Christiana, he saw Ferguson on a bicycle approaching Spaulding but Beyna did not stop him because two other officers had detained Ferguson. To get to Christiana (a north-south street), Beyna drove west on Douglas Boulevard (an east-west street) and passed Spaulding, the north-south street just before Christiana.

On behalf of defendant Finley, Maurice Underwood testified that at the time of the crimes, he and a group of men, including

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Finley, were shooting dice on a porch near the intersection of Christiana and Douglas.

On behalf of defendant Ferguson, Samuel Turnipseed testified that at the time of the crimes, defendant Ferguson was with Turnipseed, who lived on Spaulding. They were visiting on Turnipseed's porch, which faced Douglas Boulevard.

In finding defendants guilty, the trial court found the testimony of the two defense witnesses to be "improbable at best" and cursorily noted that it had listened to Beyna's testimony. The court deemed Wrigley's testimony to be "key" and "completely credible," including Wrigley's observations, his identifications of both defendants, and "the whole sequence of events."

On appeal, defendants contend that the testimony of Officer Wrigley lacked credibility to support their convictions. Specifically, defendant challenges Wrigley's testimony as to the distance between his surveillance location and the transactions, his unobstructed and large view of the area, and his account of Ferguson's detention, which varies from Officer Beyna's account.

When reviewing the sufficiency of the evidence of a criminal conviction, the task of a reviewing court is to determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the

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essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307 (1979); *People v. Ward*, 215 Ill. 2d 317, 322 (2005). When presented with a challenge to the sufficiency of the evidence, it is not the function of the reviewing court to retry the defendant. *People v. Givens*, 237 Ill. 2d 311, 334 (2010). A conviction will only be reversed when "the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *People v. Gabriel*, 398 Ill. App. 3d 332, 341 (2010).

Where, as here, a bench trial is conducted, the trial judge has the task of determining the credibility of witnesses, weighing the evidence and drawing reasonable inferences therefrom; under this standard, this court will not substitute its judgment for that of the trial court on those points. *People v. Cooper*, 194 Ill. 2d 419, 431 (2000); *People v. Little*, 322 Ill. App. 3d 607, 618 (2001). Because a conviction can be based upon the testimony of a single credible witness, Officer Wrigley's testimony in this case need not be corroborated by any other account. See *Little*, 322 Ill. App. 3d at 618.

None of defendants' attacks on Wrigley's testimony requires reversal of their convictions. Wrigley testified that he was positioned between 100 and 200 feet from the five transactions,

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which all occurred on Christiana. The inexact distance coincides with the trial court's pretrial ruling that the specific location of surveillance need not be disclosed. Similarly, Wrigley's testimony indicating that his view was fairly expansive and unobstructed is buttressed by his elevated location, which necessarily can eliminate some obstacles from impeding sight and can expand the view. The purported imperfect testimonial match about Ferguson's detention can reasonably be based on the differing locations, vantage points, timing and assignments between Wrigley, the surveillance officer who was near the crime scene, and Beyna, a member of the enforcement detail who was on his way to the scene. Any discrepancies or inconsistencies that existed in the evidence were all presented to the trier of fact, who resolves such matters. *People v. Brown*, 388 Ill. App. 3d 104, 108 (2009).

Here, defendants were seen multiple times selling heroin secreted in a chip bag in a vacant lot in the middle of the afternoon, and the eyewitness to the sales provided such a detailed description of the sellers that other officers were able to find and detain them. We find no reason to disturb defendants' convictions.

Accordingly, the judgments of the trial court are affirmed.

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Affirmed.