

No. 1-10-0589

FOURTH DIVISION
JUNE 9, 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. 09 CR 12608
)	
TANSRA BARBER,)	Honorable
)	Thomas J. Hennelly,
Defendant-Appellant.)	Judge Presiding.

JUSTICE STERBA delivered the judgment of the court.
Justices Pucinski and Salone concurred in the judgment.

O R D E R

Held: Defendant was proven guilty beyond a reasonable doubt of drug possession. This court affirmed the circuit court judgment, but modified certain fines and fees.

Following a bench trial, defendant Tansra Barber was found guilty of drug possession and sentenced to 24 months' probation. Defendant contends she was not proved guilty beyond a reasonable doubt. She also challenges the imposition of certain fines and fees. We affirm, with modifications to the fines and fees order.

At trial, Chicago police officer Urbanski testified that he

exited his marked squad car to conduct a field interview with defendant in the high narcotics area of 2728 West Flournoy. He beckoned to her, but defendant ran down a street-lit alley, where Urbanski observed defendant reach into her pants pocket, remove items, then throw them over a fence. Officer Urbanski detained defendant and retrieved the items, seven knotted baggies containing cocaine, from the other side of the fence. He did not lose sight of the items from the time defendant threw them to his recovery of them. He did not see any other drugs or paraphernalia in the lot, which was filled with scrap metal, a boat, and other debris.

The trial court found defendant guilty of possession of a controlled substance and sentenced her accordingly. Defendant now challenges that determination.

In assessing the sufficiency of the evidence, the relevant question is whether, considering 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. Jackson*, 232 Ill. 2d 246, 280 (2009). We will not reverse a conviction unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *Jackson*, 232 Ill. 2d at 281.

After reviewing this evidence in a light most favorable to the State, we conclude that a reasonable finder of fact could

have convicted defendant of possession of a controlled substance beyond a reasonable doubt. See 720 ILCS 570/402(c) (West 2008). Officer Urbanski testified credibly that he saw defendant take items from her pocket, then throw them over the fence, and that he maintained sight of the items, later determined to be drugs, until he recovered them a minute later. We reject defendant's contention that the officer's testimony was incredible, as it is not our function to retry the defendant or to substitute our judgment for that of the trier of fact regarding witness credibility or the weight of the evidence. See *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

We also reject defendant's argument that given the high-narcotics area, night-time conditions, and amount of debris and scrap metal in the alley, there is a "strong possibility" the drugs in fact were not hers but someone else's. A trier of fact is not required to accept any possible explanation compatible with defendant's innocence and elevate it to the status of reasonable doubt. See *Siguenza-Brito*, 235 Ill. 2d at 229. The uncontradicted evidence shows that defendant was in possession of the drugs that Officer Urbanski recovered in the alley.

Defendant next contends, and the State correctly concedes, that the following monetary penalties were improperly assessed because they are not related to her drug conviction: a \$5 court system fee for individuals who violate the Illinois Vehicle Code

or a similar local provision (55 ILCS 5/5-1101(a) (West 2008)) and a \$100 methamphetamine fund fine for individuals found guilty of a methamphetamine-related offense (730 ILCS 5/5-9-1.1-5(a), (b) (West 2008)). We vacate these monetary penalties.

Defendant also contends that the \$200 monetary assessment imposed for the crime lab drug analysis exceeded the \$100 fee authorized by statute for her one conviction. See 730 ILCS 5/5-9-1.4(b) (West 2008). The State concedes, and we agree, that the statute authorizes only a \$100 fee for the crime lab drug analysis in this case.

Finally, defendant contends that she is entitled to 41 days of presentencing custody credit rather than the 31 awarded under section 110-14 (725 ILCS 5/110-14 (West 2008)) of the Code of Criminal Procedure of 1963. Section 110-14 provides that a convicted defendant may receive a \$5 per/day credit for incarceration on a bailable offense when the defendant does not post bail.

The State concedes that defendant is entitled to the nine days of presentencing custody credit, but argues that under *People v. Williams*, 239 Ill. 2d 503 (2011), she is not entitled to credit for the day of sentencing. We find the State's reliance on *Williams* misplaced. The supreme court specifically stated that section 110-14(a) was not at issue in *Williams*. *Williams*, 239 Ill. App. 3d at 510.

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It is well-settled that the credit in section 110-14 applies from the time the defendant is in pretrial custody up to the time of sentencing, and any portion of a day spent in custody is counted as a full day for the purposes of this credit. *People v. Robinson*, 391 Ill. App. 3d 822, 844-45 (2009).

We therefore grant defendant an additional 10 days of presentencing custody credit, resulting in \$205 of credit. We order the fines and fees order to reflect this credit, as well as the vacation of the \$5 court system fee and \$100 methamphetamine fund fine, and reduction of \$200 for the crime lab drug analysis to \$100. The total fines and fees after applying the credit is \$1035.

We affirm the judgment of the circuit court of Cook County in all other respects.

Affirmed in part; modified in part.