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2011 IL App (3d) 100167-U

Order filed November 23, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF
ILLINOIS,

Plaintiff-Appellee,

v.

QUANISHA McDONALD,

Defendant-Appellant.

) Appeal from the Circuit Court
) of the 12th Judicial Circuit,
) Will County, Illinois,
)
) Appeal No. 3-10-0167
) Circuit No. 08-CF-917
)
) Honorable
) Edward A. Burmila, Jr.,
) Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Schmidt and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence produced at trial was sufficient to allow a rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. Defendant is entitled to a \$100 credit against her court costs.

¶ 2 A jury convicted defendant, Quanisha McDonald, of three counts of unlawful delivery of cannabis (720 ILCS 550/5(d) (West 2008)). Defendant appeals her conviction, arguing that the State's identification evidence was weakened by a witness's inability to recall significant details regarding the identity of the offender and that her alibi evidence should have proved her

innocent. Defendant also contends that her court cost sheet should be amended so that it reflects the \$5 a day credit she is entitled to for the 20 days she spent in presentence custody. We amend defendant's court costs to reflect the \$100 credit she is entitled to and otherwise affirm her conviction.

¶ 3

FACTS

¶ 4 On May 15, 2008, defendant was charged with three counts of unlawful delivery of cannabis (720 ILCS 550/5(d) (West 2008)). The charges were the result of three undercover operations conducted by the Will County Cooperative Assistance Team on January 2, 14, and 24, 2008. Following the indictment, the cause proceeded to a jury trial.

¶ 5 At trial, Detective Gary Augustine testified that he met with defendant on January 2, 14, and 24, 2008, as part of an undercover operation. On each date he would park outside of a residence and wait for defendant. On January 2 and 14, defendant retrieved a bag of cannabis from a green Oldsmobile and then entered the undercover vehicle driven by Augustine and delivered the cannabis to him in exchange for cash. On January 24, defendant sat with Augustine in the undercover vehicle for approximately 15 minutes while they waited for the green Oldsmobile to deliver the cannabis to defendant. While they waited, Augustine sat facing defendant and had a conversation with her. Although he could not recall exactly what they talked about, he noted that the person in the car with him that day was the same individual who delivered cannabis to him on January 2 and 14. After waiting 15 minutes, Augustine left. He returned later that day at approximately 4:39 p.m., and defendant emerged from the residence and delivered a bag of cannabis to the undercover car. Augustine testified that he was "100%" positive that defendant was the individual who delivered the drugs to him during each of the

three operations.

¶ 6 The State also called Officers Chris Marshall and Doug May. Both officers had taken part in the undercover operations. Marshall testified that he was able to see the face of the individual targeted during the undercover investigation and identified defendant as that individual. Likewise, May testified that he also got a good look at the target as she exited the residence, and he too identified defendant in court as the targeted individual.

¶ 7 The defense called Timothy Moyer and Pamela Pangrazio. Moyer was defendant's manager at Provena St. Joseph's Medical Center (Provena). He described an employee tracking system that time stamped the start and completion of every task that an employee received. In order to use the system, an employee simply telephoned in and inserted a unique four digit number. The employee neither talked to a live person nor used any other identifying information. Moyer testified that the system recorded that defendant's four digit number was used to accept a job at 4:37 p.m. on January 24, 2008. The job was completed at 4:50 p.m. Pangrazio, a payroll systems specialist at Provena, testified that defendant's identification badge was swiped in at 12:01 p.m. on January 24, 2008, and not swiped out until 9:30 p.m. However, neither Moyer or Pangrazio actually saw defendant at work on January 24.

¶ 8 In rebuttal, the State called Special Agent Ray Rodriguez. He testified that he took part in the undercover operation involving defendant on January 2, 2008. After the delivery, the officers returned to the police station, and one of the agents ran the license plate number of the green Oldsmobile. They discovered that the car was registered to defendant and Angela Thomas. An agent received the Secretary of State images for both individuals. From the images, the officers identified defendant as the individual who delivered cannabis to Augustine.

¶ 9 The jury returned a verdict of guilty on all three counts. Defendant appeals.

¶ 10 ANALYSIS

¶ 11 Defendant appeals, arguing that her convictions for unlawful delivery of cannabis should be reversed because the State's evidence was not sufficient to prove her guilty beyond a reasonable doubt. When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry defendant; rather, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237 (1985). It is up to the jury to determine the credibility of the witnesses and the weight to be given their testimony. *Snover v. McGraw*, 172 Ill. 2d 438 (1996). The testimony of one eyewitness is sufficient to support a conviction, provided the viewing of the accused was under such circumstances as would permit positive identification; this is true even where the witness's testimony is contradicted by the accused. *People v. Snulligan*, 204 Ill. App. 3d 110 (1990).

¶ 12 In this case, three police officers positively identified defendant as the individual who delivered cannabis to an undercover officer on three separate occasions. One of the officers, Augustine, was physically present in a vehicle with defendant during each delivery. On January 24, 2008, Augustine and defendant sat in the vehicle for 15 minutes while they waited for the cannabis to be delivered. During that time, Augustine sat facing defendant. The undercover operations presented sufficient opportunity for a positive identification of defendant. Therefore, these identifications supported defendant's conviction beyond a reasonable doubt.

¶ 13 It is important to note that defendant's alibi evidence was not perfect. Although witnesses testified that the tracking systems at defendant's work recorded that her identification badge and four digit number were used at the same time as the commission of one of the offenses, defendant presented no evidence that she was the individual who swiped her badge or inserted her four digit number. In fact, no witness testified that they actually saw defendant at work on January 24, 2008. Therefore, because determinations of credibility are left up to the fact finder, we will not disturb the jury's conclusion that the State's evidence was more credible than defendant's alibi evidence.

¶ 14 Defendant also contends, and the State agrees, that she is entitled to a \$100 reduction of her fine based on a \$5 a day credit for the 20 days she spent in presentence custody. Pursuant to section 110-14 of the Code of Criminal Procedure of 1963, a defendant who is assessed a fine is allowed a credit of \$5 for each day spent in custody on a bailable offense for which she did not post bail. 725 ILCS 5/110-14 (West 2006). Therefore, based on defendant's time spent in jail prior to her sentencing, she is entitled to a \$100 credit against her fine.

¶ 15 **CONCLUSION**

¶ 16 Defendant is entitled to a \$100 credit against her fine. The judgment of the circuit court of Will County is otherwise affirmed.

¶ 17 Affirmed as modified.