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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 10 CR 5871
	)	
ALLERY WALKER,	)	Honorable
	)	Michael J. Howlett, Jr.,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE ROCHFORD delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Karnezis concurred in the judgment.

**ORDER**

¶ 1 *Held:* Where the trial court found police officers credibly testified they saw defendant drop packets of suspect heroin to the ground as they approached him, the State proved defendant guilty beyond a reasonable doubt of possession of a controlled substance with intent to deliver, and his conviction is affirmed.

¶ 2 Following a bench trial, defendant, Allery Walker,<sup>1</sup> was convicted of possession of a controlled substance with intent to deliver and sentenced to six years' imprisonment as a Class X offender based upon his criminal history. On appeal, defendant solely contends the State failed to prove him guilty beyond a reasonable doubt because police officers' testimony, that he dropped packets of suspect heroin to the ground in plain view of those officers, was not credible. We affirm.

¶ 3 In a joint indictment, defendant was charged individually with possession of a controlled

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<sup>1</sup>The record shows defendant's real name is Ronnie Walker. However, in this case, defendant uses his brother's name, Allery Walker, as an alias.

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substance with intent to deliver, and charged jointly with codefendant, Glendale Sanders, with possession of a controlled substance. The trial court granted Mr. Sanders's motion to quash arrest and suppress evidence. Thereafter, the State dismissed the charge against Mr. Sanders and proceeded with the case against defendant.

¶ 4 At trial, Chicago police Officer John Murphy testified that at approximately 3:50 p.m. on January 7, 2010, he was on routine patrol, sitting in the front-passenger seat of an unmarked police car when, from a distance of approximately 25 feet, he saw defendant and Mr. Sanders engaged in a suspected narcotics transaction. As his police car approached the area where defendant and Mr. Sanders were standing, Officer Murphy saw Mr. Sanders hand money to defendant in exchange for a small object defendant retrieved from his jacket pocket. Defendant and Mr. Sanders then walked away from each other. Within seconds, Officer Murphy exited the car and approached defendant from behind. Officer McGrory, who arrived in a separate police car, followed Officer Murphy. When he was approximately 10 feet from defendant, Officer Murphy announced his office. Defendant reached into his jacket pocket and removed an object, then dropped the object to the ground. Officer Murphy detained defendant as Officer McGrory recovered the dropped object from the ground. Officer McGrory told Officer Murphy the recovered object was narcotics. Officer Murphy then arrested defendant. The recovered object consisted of three separate tinfoil packets wrapped in clear tape. At the time of defendant's arrest, Officer Gallagher and Officer Beckman approached Mr. Sanders, who told them he had "one blow" in his pants pocket. Officer Gallagher recovered a tinfoil packet of suspect heroin from Mr. Sanders's pocket—identical to the items dropped by defendant.

¶ 5 Chicago police Officer Matthew McGrory testified he was riding in the front-passenger seat of an unmarked police car behind the police car Officer Murphy was riding in, when the first car stopped. Officer Murphy approached defendant, and Officer McGrory exited his car and followed Officer Murphy. When the officers were approximately 10 feet from defendant, Officer McGrory

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saw defendant reach into his right-jacket pocket and drop multiple items to the ground. Officer McGrory recovered those items, which were three tinfoil packets of suspect heroin wrapped in clear tape. Officer Gallagher arrested Mr. Sanders and recovered from him one tinfoil packet of suspect heroin wrapped in clear tape—identical to the packets recovered from defendant. Officer McGrory kept all the recovered items in his pocket and later inventoried them at the police station. During a custodial search, Officer Bouch recovered \$127 from defendant, also inventoried by Officer McGrory. Officer McGrory acknowledged he did not see the suspected narcotics transaction occur.

¶ 6 Chicago police Officer James Gallagher testified he was seated in the rear-driver side of Officer Murphy's car, when he saw defendant and Mr. Sanders approximately 25 feet away engaged in a suspected narcotics transaction. Mr. Sanders handed money to defendant in exchange for a small item defendant retrieved from his jacket pocket. Officer Gallagher exited his vehicle and approached Mr. Sanders, whom he knew by name. Mr. Sanders spontaneously stated: "I have one blow," and directed Officer Gallagher to his right-front pants pocket. Officer Gallagher recovered one tinfoil packet of suspect heroin wrapped in clear tape from Mr. Sanders's pocket. The packet Officer Gallagher recovered from Mr. Sanders was identical to the three tinfoil packets wrapped in clear tape recovered from defendant. Officer Gallagher admitted he did not see defendant drop any items to the ground.

¶ 7 Chicago police Officer Matthew Bouch testified that when he arrived at the location of the arrest, he was no longer in his vehicle, but "on foot," and defendant had already been arrested. At the police station, Officer Bouch conducted a custodial search of defendant and recovered \$127 from his left-front pants pocket. On cross-examination, Officer Bouch testified he was the driver of the second police car in which Officer McGrory was riding. Thereafter, the parties stipulated that one of the three items recovered from defendant tested positive for 0.1 grams of heroin.

¶ 8 Mr. Sanders testified for the defense he was arrested with defendant for possession of a controlled substance. Mr. Sanders stated that as he was walking down the street, two police cars

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arrived at the scene. The officers from the second car exited their car and called out to Mr. Sanders. They then grabbed Mr. Sanders and brought him to their car, at which time Mr. Sanders looked down the street and saw the other officers had detained defendant. Mr. Sanders denied purchasing heroin from defendant, denied having any transactions or dealings with defendant, and denied ever greeting defendant. Mr. Sanders further denied telling police he had "one blow" in his pocket, and denied the police found heroin in his pocket. Mr. Sanders acknowledged his six prior drug convictions, between 1986 and 1998, and his 1976 conviction for armed robbery.

¶ 9 The trial court summarized the evidence presented and stated it weighed the credibility of the testimony of the police officers and Mr. Sanders. The court then found, "[t]aking all that into account," defendant was proven guilty of possession of a controlled substance with intent to deliver and possession of a controlled substance. The trial court then sentenced defendant to a term of six years' imprisonment as a Class X offender based upon his criminal history.

¶ 10 On appeal, defendant solely contends the State failed to prove him guilty beyond a reasonable doubt because the testimony of Officer Murphy and Officer McGrory, that defendant dropped packets of heroin to the ground in plain view of those officers, was not credible. Defendant argues it is doubtful a person would remove concealed contraband from his person and place it in plain view of police for no apparent reason. He further argues Officer McGrory's claimed observations were not possible because Officer Bouch testified their car did not arrive at the scene until after defendant was arrested. In addition, defendant claims Officer Gallagher's testimony, that Mr. Sanders made a spontaneous admission he was in possession of heroin, is unlikely, suspicious, "too convenient," and it "sanitized" the police version of events from "any potential legal pitfalls."

¶ 11 When a defendant argues evidence is insufficient to support his conviction, a court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements of the offense proven beyond a reasonable doubt. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). A criminal conviction will not be reversed based upon

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insufficient evidence unless the evidence is so improbable or unsatisfactory, that there is reasonable doubt as to defendant's guilt. *People v. Schmalz*, 194 Ill. 2d 75, 80 (2000). Moreover, a conviction will not be reversed merely because defendant claims a witness was not credible. *People v. Smith*, 177 Ill. 2d 53, 74 (1997). In a bench trial, the trial judge is responsible for determining the credibility of the witnesses, weighing the testimony, resolving conflicts in the evidence, and drawing reasonable inferences therefrom. *People v. Austin*, 349 Ill. App. 3d 766, 769 (2004).

¶ 12 Here, we find nothing inherently implausible in the police officers' testimony. Officer Murphy testified he saw defendant and Mr. Sanders engaged in a suspected narcotics transaction and, within seconds, he approached defendant from behind, with Officer McGrory following him. Officer Murphy further testified that when he was 10 feet from defendant, he announced his office. Defendant then reached into his jacket pocket, removed an object, and dropped that object to the ground. Officer Murphy's testimony was corroborated by Officer McGrory who similarly testified he followed Officer Murphy as they approached defendant and, when they were 10 feet from him, defendant reached into his jacket pocket and dropped multiple items to the ground. Both officers testified Officer McGrory recovered the dropped items and found them to be three tinfoil packets of suspect heroin wrapped in clear tape.

¶ 13 We do not find Officer Gallagher's testimony suspicious that Mr. Sanders spontaneously admitted he had "one blow" of heroin in his pocket. Officer Gallagher testified he knew Mr. Sanders by name. Mr. Sanders testified two police cars arrived on the scene and, the officers who exited the second car called out to him. Officer Murphy testified as to observing Mr. Sanders in a suspected drug transaction with defendant and receive a small object in exchange for money. Based on the above testimony, we do not find the testimony as to Mr. Sanders's admission unlikely or suspicious.

¶ 14 Finally, we reject defendant's argument that Officer Bouch testified the police car he was driving arrived at the scene after defendant was arrested, thereby making Officer McGrory's testimony, that he saw defendant drop the drugs, impossible. Officer Bouch testified he was the

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driver of the second police car in which Officer McGrory was a passenger. Officer Bouch was asked if he was "on foot or in a vehicle" when he was at the specific address where defendant was arrested. Officer Bouch answered: "[a]t this time, on foot." Shortly thereafter, Officer Bouch was asked if defendant was already arrested after he arrived at that specific address. The officer answered: "yes." From reading this testimony in context, we find Officer Bouch did not testify that the car he was driving arrived at the scene after defendant was arrested but, instead, that Officer Bouch himself arrived "on foot" at the exact point of defendant's arrest after defendant had already been placed in custody. Consequently, we find no conflict between the testimony of Officer Bouch and Officer McGrory.

¶ 15 The record reveals that prior to making its ruling, the trial court summarized the testimony presented and expressly stated it weighed the credibility of the testimony of the police officers and Mr. Sanders. The court then found, "[t]aking all that into account," defendant was proven guilty. As the trier of fact, the trial court was in the superior position to assess the credibility of the witnesses, observe their demeanor, weigh their testimony and resolve any conflicts therein, and we find no reason to disturb its findings. *Id.*

¶ 16 For these reasons, we affirm the judgment of the circuit court.

¶ 17 Affirmed.