

No. 1-11-1926

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).

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. 10 CR 12534
)	
CEDRICK MICKEY,)	Honorable
)	Dennis J. Porter,
Defendant-Appellant.)	Judge Presiding.

JUSTICE STEELE delivered the judgment of the court.
Presiding Justice Salone and Justice Neville concurred in the judgment.

ORDER

- ¶ 1 *Held:* Evidence was sufficient to establish that defendant was guilty of two counts of possession of a controlled substance with intent to deliver where defendant was found to be in possession of \$841 in cash and 2 plastic bags containing 22 smaller plastic bags containing rocks of heroin and cocaine.
- ¶ 2 In a bench trial, defendant Cedrick Mickey was convicted of two counts of possession of a controlled substance with intent to deliver and sentenced to two concurrent terms of eight years in prison. On appeal, defendant challenges the sufficiency of the evidence to convict him.
- ¶ 3 At trial, Chicago police officer Paredes testified that at about 11:20 a.m. on June 15, 2010, he and three other police officers were on patrol in an unmarked vehicle at 91st Street and

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Buffalo Avenue in Chicago. According to Paredes, the officers were in the area looking for possible burglary or robbery suspects. Paredes was wearing civilian clothes, but his police star was visible. Defendant was standing on the corner, speaking to another person, when Paredes approached him on foot to conduct a field interview. Defendant fled and Paredes chased him. As defendant fled, he threw away two plastic bags. Paredes detained defendant and directed one of his fellow officers, Marzeek Williams, to where defendant had thrown the bags. Williams and the other two officers had pursued defendant in their vehicle, attempting to cut him off. Williams recovered 2 plastic bags containing a total of 22 smaller bags. It was subsequently established, through the stipulated testimony of a police chemist, that one bag contained four smaller knotted plastic bags containing heroin, weighing a total of 1.09 grams. The other bag contained 18 smaller knotted plastic bags containing rocks of cocaine, weighing a total of 5.3 grams. As Paredes began to walk defendant to the police car, defendant also dropped \$841 in cash.

¶ 4 Paredes testified that he had made over 100 narcotics arrests. Based upon his experience, the manner in which the drugs were packaged, in small knotted plastic bags, indicated that they were intended for distribution.

¶ 5 Chicago police officer Williams also testified and substantially corroborated the testimony of Paredes concerning defendant's flight, his detention, and the subsequent recovery of the packaged drugs and the \$841 in cash.

¶ 6 Defendant was convicted of two counts of possession of a controlled substance with intent to deliver and sentenced to concurrent terms of eight years in prison. He now appeals.

¶ 7 Defendant contends that his convictions should be reduced to simple possession because the evidence did not establish that he possessed the drugs with the intent to deliver or sell them. When considering a challenge to the sufficiency of the evidence, we review that evidence in the light most favorable to the prosecution in order to determine whether any rational trier of fact

could have found the essential elements of the crime beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). We also bear in mind that the trier of fact is not required to disregard inferences that flow normally from the evidence or to seek out all possible explanations consistent with innocence and elevate them to reasonable doubt. *People v. Jackson*, 232 Ill. 2d 246, 281 (2009).

¶ 8 The intent to deliver drugs is often proved by circumstantial evidence. *People v. Robinson*, 167 Ill. 2d 397, 407-08 (1995). Among the factors which may be considered as circumstantial evidence of the intent to deliver are: quantities of drugs which are too large for personal consumption, the possession of weapons, the unexplained possession of large amounts of cash, the possession of police scanners, the possession of drug paraphernalia, and whether drugs are packaged in a manner indicating intent to sell. *Robinson*, 167 Ill. 2d at 407-12. In *People v. Beverly*, 278 Ill. App. 3d 794, 799 (1996), defendant's conviction for possession of narcotics with intent to deliver was affirmed where the evidence established that he possessed six small bags containing less than a gram of cocaine along with \$427 in cash, and there was police testimony that the packaging was a common means of packaging drugs for sale. Here, defendant possessed 2 plastic bags containing a total of 22 small knotted bags of cocaine and heroin, along with \$841 in unexplained cash. In addition, an experienced police officer testified that the use of the small knotted plastic bags indicated that the drugs were being held for sale. The sufficiency of circumstantial evidence to prove the intent to deliver is to be determined on a case-by-case basis. *Robinson*, 167 Ill. 2d at 412-13. Therefore, defendant's citation of cases where one or another factor was deemed insufficient to establish intent to deliver is unavailing, as we are concerned with evaluating a combination of factors in this particular case. Defendant asserts that his possession of a large amount of cash was not evidence of the intent to deliver, because his possession of this cash was explained. Defendant's source for this explanation is a statement in

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the presentence investigation report about the cash he earned while working as a cook, six years before he was arrested. In any event, this was not a matter of record in the trial and cannot be relied upon by defendant. See *People v. Wallenberg*, 24 Ill. 2d 350, 354 (1962) (trial court's deliberations are limited to the record created during the course of trial); *People v. Jackson*, 409 Ill. App. 3d 631, 647 (2011).

¶ 9 Based upon the evidence we have cited, we find that the trial court was justified in finding that defendant's intent to deliver the cocaine and heroin he possessed was proved beyond a reasonable doubt. Accordingly, we affirm defendant's convictions and sentences.

¶ 10 Defendant has also noted that the mittimus incorrectly states that he was convicted of the manufacture or delivery of heroin and cocaine. We order that the mittimus be corrected to reflect that defendant was convicted of one count of the possession of between 1 and 15 grams of heroin with intent to deliver and one count of the possession of between 5 and 15 grams of cocaine with intent to deliver. See Ill. S. Ct. R. 615.

¶ 11 Affirmed; mittimus corrected.