

No. 1-12-0169

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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. 11 CR 2201
)	
LARRY COLEMAN,)	Honorable
)	Maura Slattery Boyle,
Defendant-Appellant.)	Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

- ¶ 1 *Held:* Officer's testimony that defendant handed a baggie containing cocaine to codefendant was sufficient to sustain defendant's conviction for delivery of cocaine.
- ¶ 2 Following a bench trial, defendant Larry Coleman was found guilty of delivery of cocaine and sentenced, as a Class X offender, to nine years in prison. On appeal, defendant contends the State failed to prove him guilty beyond a reasonable doubt because testimony from an officer regarding events surrounding his arrest was improbable and inconsistent with human experience.

Defendant also contends, and the State properly concedes, his mittimus should be corrected to reflect a conviction for delivery, and not manufacture or delivery, of cocaine. We correct defendant's mittimus but otherwise affirm the judgment below.

¶ 3 At trial, Chicago police officer Darius Reed testified he was working in plain clothes and in an unmarked police vehicle with two partners on the afternoon of January 4, 2011. The officers were in the vicinity of 3800 West Monroe, an area which Reed testified he thought was a "gang conflict narcotic hot spot" at the time. Reed had previously performed "hundreds" of arrests related to hand-to-hand narcotics transactions during his four years on the force. Sometime around 1:45 p.m., the officers turned eastbound on Monroe, a one-way street in the westbound direction. While Reed was sitting in the passenger seat of the vehicle on this clear day, he observed defendant standing approximately 45 feet away on the sidewalk near 3831 West Monroe, holding an unknown amount of money in his right hand. A few cars were parked along the street between the officers and defendant.

¶ 4 As the officers approached in the vehicle to within 25 feet of defendant, Reed observed defendant holding a plastic baggie in his left hand. Defendant engaged Glendora Davis in conversation and handed the plastic baggie to her. At this point, Reed believed a narcotics transaction was taking place. Reed and his partners pulled to the curb, exited the vehicle and identified themselves as police officers. Davis began to walk away from the officers, and Reed followed her. Reed observed Davis place the baggie inside her mouth. Reed asked her to spit the item out and she complied, depositing the baggie on ground at Reed's feet.

¶ 5 Reed and his partners arrested defendant, Davis and Keyshonda Jackson¹, who was later identified as Davis' friend. At the police station, defendant nodded in the direction of Davis, who was sitting near Jackson, and said he "gave [Davis] the rocks," but then stated "I didn't give [Jackson] them blows, though."

¹ Davis and Jackson, who are not parties in this appeal, were respectively charged with possession of cocaine and possession of heroin.

¶ 6 The parties stipulated, *inter alia*, that the baggie recovered from Davis contained 11 capsules which, together, contained 1.1 grams of cocaine. The State then rested.

¶ 7 Prior to defendant's trial, Glendora Davis pled guilty to possession of the cocaine which she spit out of her mouth. At defendant's trial, Davis testified defendant was her boyfriend, and Jackson was her friend. Davis was with Jackson and was talking to defendant when the police arrived and "grabbed" defendant from a porch. The police also detained Davis and Jackson, and told Davis they had seen defendant hand her either drugs or money. The police then searched Davis and found "18 capsules" of "crack" which were in her mouth. She denied defendant gave her anything and denied giving defendant money.

¶ 8 On cross-examination, Davis claimed she bought the cocaine near where she lived, "off Hamlin and Thomas." She first stated she bought it "the other day," then stated she bought it earlier on the same day of her arrest. She then "caught the bus" and 15 minutes later arrived in the 3800 block of West Monroe.

¶ 9 After closing arguments, the court stated it found Davis' statement about where she received the cocaine "inconsistent." It also noted it believed defendant was "trying to be a good boyfriend" and that by telling police at the station he had given Davis the cocaine, defendant was trying to "spare her any responsibility for what he handed her." The court went on to find the transfer of the bag of narcotics from defendant to Davis was proven beyond a reasonable doubt.

¶ 10 The court found defendant guilty of delivery of between 1 and 15 grams of cocaine. Before sentencing, defense counsel argued, *inter alia*, that Officer Reed's testimony was incredible. The court disagreed, stating it believed defendant did not notice the police car coming towards him the wrong way down Monroe because he was intent on handing out the narcotics so his associates could "go out to start work for the day." Defendant's criminal history included numerous felonies and the court imposed a nine-year sentence. Subsequently, defendant filed an unsuccessful posttrial motion which raised the same arguments now made on appeal.

¶ 11 On appeal, defendant first contends that the evidence presented through Officer Reed's testimony was insufficient to show he possessed or delivered the cocaine to Davis. Specifically, defendant argues Reed's testimony was "implausible," "contrary to human experience," and uncorroborated. Defendant further submits that the trial court did not find his alleged confession at the police station to be credible.

¶ 12 When presented with a challenge to the sufficiency of evidence, our inquiry is whether, after viewing 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. Givens*, 237 Ill. 2d 311, 334 (2010). We will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). The trial court must determine the credibility of witnesses, weigh the evidence, draw reasonable inferences, and resolve any conflicts in the evidence. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). All reasonable inferences from the record must be allowed in favor of the State. *Givens*, 237 Ill. 2d at 344. The testimony of a single witness, if it is positive and the witness credible, is sufficient to convict, (*People v. Castillo*, 372 Ill. App. 3d 11, 20 (2007)) even if it is contradicted by the defendant (*People v. Fultz*, 2012 IL App (2d) 101101, ¶45).

¶ 13 A defendant is guilty of delivery of a controlled substance if he knowingly possessed and delivered a controlled substance. 720 ILCS 570/401(c)(2)(West 2010).

¶ 14 Here, Davis admitted possession of the subject cocaine and her source was the subject of conflict though the testimony of herself and Officer Reed. Reed testified he and his partners were in an area he believed at the time was a "gang conflict narcotic hot spot" and conditions were clear when he observed defendant hand a baggie ultimately revealed to contain cocaine to Davis, which Davis placed in her mouth. Reed had previously performed "hundreds" of arrests related to hand-to-hand drug transactions. Moreover, after his arrest, defendant told Reed he had given Davis "the rocks."

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¶ 15 By contrast, Davis testified she purchased the cocaine she held in her mouth both "the other day," and earlier the same day. She also claimed defendant did not hand her "anything."

¶ 16 The court resolved the conflict in favor of Officer Reed, noting it found Davis's account of where she received the cocaine "inconsistent" and it believed defendant told police at the station he gave Davis the drugs to "spare her any responsibility for what he handed her." The court believed that defendant's confession and Davis' inconsistent testimony were influenced by their relationship. The court also disagreed with defense counsel's argument that portions of Reed's testimony were incredible. Based upon the evidence and the trial court's findings, we cannot say the evidence was so improbable or unsatisfactory that no rational trier of fact could have found defendant guilty beyond a reasonable doubt.

¶ 17 Defendant next contends, and the State properly concedes, that his mittimus must be corrected to accurately reflect he was convicted of delivery of between 1 and 15 grams of cocaine. Though defendant here was convicted of delivering cocaine, his mittimus presently and erroneously reads "MFG/DEL," indicating manufacture or delivery. As such, we order the clerk of the circuit court to correct defendant's mittimus and strike the "MFG." See *People v. Mitchell*, 234 Ill. App. 3d 912, 921 (1992) (remand not required to correct mittimus).

¶ 18 For these reasons, we correct defendant's mittimus and affirm the judgment of the trial court in all other respects.

¶ 19 Affirmed.