

cocaine from the defendant. The purchase occurred in Harrisburg at a house located on West Towle Street. Inspector Glenn Roundtree testified that while the confidential source was inside the house, he was a block away in a vehicle parked at the Church of New Beginnings. Roundtree further testified that when he later measured the distance from the house to the church, "[i]t was 770 feet."

¶ 5 Kenneth Blumenstock testified that he was the pastor of Christian Life Fellowship, a "full gospel church" located on North Webster Street in Harrisburg. Blumenstock explained that he became the church's pastor in May 2009 and that the church had formerly been called the Church of New Beginnings. Blumenstock stated that to the best of his knowledge, the church had been at its present location for 12 to 15 years and that the pastor whom he succeeded, Kenny Mayhall, had been with the church for 5 or 6 years. Blumenstock further stated that Mayhall had succeeded Terry Gwaltney, the pastor who started the church. Blumenstock testified that to the best of his knowledge, on March 13, 2008, the Church of New Beginnings had been "a church and nothing but a church."

¶ 6 When cross-examined, Blumenstock acknowledged that he had had no personal contact with the Church of New Beginnings prior to 2009. He also admitted that his knowledge of the church's history was based on what others had told him.

¶ 7 On redirect, Blumenstock explained that he had learned the church's history "by dealing with the church board" and by talking to members who had attended the church over the years. When asked if based on conversations that he personally had, he was aware that the church was a church in 2008, defense counsel objected on hearsay grounds, and the trial court sustained the objection. The trial court did not contemporaneously give a curative instruction, but the jury was later instructed to disregard questions to which objections were sustained.

¶ 8 In its closing arguments to the jury, the State referenced Blumenstock's testimony

regarding the history of the church as evidence that the Church of New Beginnings was an active church on March 13, 2008. In response, defense counsel noted that "it was clear from his own personal testimony that [Blumenstock] did not have [the] ability to tell [the jurors] about the status of [the] church in March of 2008."

¶ 9 The jury ultimately found the defendant guilty as charged, and the trial court ordered him to serve an 18-year sentence on his conviction. Following the trial court's denial of his motion to reconsider and reduce sentence, the defendant filed a timely notice of appeal.

¶ 10 DISCUSSION

¶ 11 The offense of unlawful delivery of between 1 and 15 grams of any substance containing cocaine is a Class 1 felony. 720 ILCS 570/401(c)(2) (West 2008). If the delivery occurred within 1,000 feet of a church, however, the offense is a Class X felony. 720 ILCS 570/407(b)(1) (West 2008). To sustain a conviction for the Class X felony, the State must prove beyond a reasonable doubt that the church was operating as a church on the date of the offense. *People v. Ortiz*, 2012 IL App (2d) 101261, ¶ 11. If it is determined on appeal that the State failed to prove this element, the proper remedy is to reduce the defendant's Class X conviction to a Class 1 conviction and remand for resentencing. *Id.* ¶ 15.

¶ 12 On appeal, the defendant does not argue that the State failed to prove that he knowingly delivered approximately five grams of cocaine to a confidential source on March 13, 2008, or that the delivery occurred within 1,000 feet of the Church of New Beginnings. Suggesting that the entirety of Blumenstock's testimony regarding the history of the Church of New Beginnings was inadmissible hearsay, however, the defendant argues that the State did not prove beyond a reasonable doubt that the church was an active church on March 13, 2008. The defendant thus asks that we reduce his conviction to a Class 1 felony and remand for a new sentencing hearing. In response, the State maintains, "Assuming, for the sake of argument, that all of Pastor Blumenstock's testimony on direct examination concerning his

knowledge of the church's history derived from hearsay rather than personal knowledge, the absence of objection is fatal to [the] defendant's argument on appeal." We agree with the State.

¶ 13 "It is well established that when hearsay evidence is admitted without an objection, it is to be considered and given its natural and probative effect." *People v. Banks*, 378 Ill. App. 3d 856, 861 (2007); see also *People v. Thomas*, 137 Ill. 2d 500, 524 (1990) ("[E]ven if these statements constitute impermissible hearsay, [the] defendant has waived his claim by failing to file a timely objection."); *People v. Akis*, 63 Ill. 2d 296, 299 (1976) ("A rule of evidence not invoked by timely objection is waived," and when hearsay evidence is "admitted without objection[,] it is to be considered and given its natural probative effect."). Moreover, a defendant who raises a sufficiency-of-the-evidence argument on appeal must recognize "the waiver wrought by his failure to object to the admissibility of the evidence." *Banks*, 378 Ill. App. 3d at 861-62. We also note that the rule requiring that a defendant raise his objections in a timely manner is particularly applicable where a defendant claims on appeal that the State failed to lay the proper foundation for the admission of evidence. *People v. Bynum*, 257 Ill. App. 3d 502, 514 (1994). "This is so because a timely and specific objection allows the State the reasonable opportunity to correct any deficiency in the foundation proof." *Id.* at 514-15.

¶ 14 Here, none of Blumenstock's direct-examination testimony was objected to, so the jury was free to consider it and give it its natural and probative effect. We must therefore determine whether the testimony was sufficient to establish that the Church of New Beginnings was an active church on March 13, 2008.

¶ 15 When reviewing the sufficiency of the evidence supporting a criminal conviction, it is not the function of the reviewing court to retry the defendant. *People v. Ward*, 215 Ill. 2d 317, 322 (2005). Rather, "[t]he relevant inquiry is whether, 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." *Id.* Under this standard, a reviewing court "will not reverse a conviction unless the evidence is so unreasonable, improbable or unsatisfactory that it raises a reasonable doubt of [the] defendant's guilt." *People v. Evans*, 209 Ill. 2d 194, 209 (2004).

¶ 16 As previously noted, Blumenstock testified that to the best of his knowledge, the Church of New Beginnings had been located on North Webster Street for 12 to 15 years. He further testified that the church's founding pastor had been succeeded by Mayhall, who served as pastor for 5 or 6 years. According to Blumenstock, he succeeded Mayhall in May 2009 and had been with the church ever since. Sometime after May 2009, the church changed its name to Christian Life Fellowship. Blumenstock stated that to the best of his knowledge, on March 13, 2008, the Church of New Beginnings had been "a church and nothing but a church."

¶ 17 "It is the jury's responsibility to determine the witnesses' credibility and the weight given to their testimony, to resolve conflicts of the evidence, and to draw reasonable inferences from the evidence." *People v. Johnson*, 353 Ill. App. 3d 954, 956 (2004). "Moreover, the jury's verdict is entitled to great deference" (*People v. Griffin*, 375 Ill. App. 3d 564, 572 (2007)), and " 'to prove guilt beyond a reasonable doubt does not mean that the jury must disregard the inferences that flow normally from the evidence before it' " (*People v. Patterson*, 217 Ill. 2d 407, 435 (2005) (quoting *People v. Williams*, 40 Ill. 2d 522, 526 (1968))).

¶ 18 Here, viewing Blumenstock's testimony in the light most favorable to the prosecution, the jury could have readily concluded that the Church of New Beginnings was an active church on March 13, 2008. Even without Blumenstock's assertion that the church had been a church on that date, the jury could have rationally concluded the same from his recitation

of the church's history. Blumenstock indicated that the church had been operating at the same location for over a decade, that he was the church's third pastor, and that both of his predecessors had served the church for several years. There was no evidence suggesting that the church had ceased to function as a church at any time since its inception or that Blumenstock had started a new church in May 2009.

¶ 19 Under the circumstances, we reject the defendant's contention that the State failed to prove beyond a reasonable doubt that the Church of New Beginnings was an active church in March 2008. *Cf. People v. Cadena*, 2013 IL App (2d) 120285, ¶ 16 (reducing the defendant's conviction where "the testimony was insufficient to prove that the church was active *on the dates of the offenses*" (emphasis in original)); *Ortiz*, 2012 IL App (2d) 101261, ¶ 11 (reducing the defendant's conviction where the State failed to establish that the church building "was such a building *on the date of the offense*" (emphasis in original)). Accordingly, we affirm his conviction for unlawful delivery of a controlled substance within 1,000 feet of a church.

¶ 20

CONCLUSION

¶ 21 For the foregoing reasons, the defendant's conviction is hereby affirmed.

¶ 22 Affirmed.