

No. 1-13-4024

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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. 13 CR 7131
	)	
RODNEY WILSON,	)	Honorable
	)	Thaddeus L. Wilson,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE MASON delivered the judgment of the court.  
Justices Fitzgerald Smith and Lavin concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Defendant's conviction for possession of a controlled substance affirmed where a police officer testified that defendant dropped two bags of heroin in the officer's presence.

¶ 2 Following a bench trial, defendant Rodney Wilson was convicted of possession of less than 15 grams of heroin and sentenced to an extended term of six years in prison. On appeal, Wilson contends that the State failed to prove his guilt beyond a reasonable doubt, arguing that the testimony of the arresting officer was uncorroborated, inconsistent with his prior statements,

and unworthy of belief for stating that Wilson dropped two bags of drugs in the officer's presence. We affirm.

¶ 3 At trial, Officer Domingo Enriquez testified that he executed a search warrant for a second-floor apartment at 5402 South Carpenter Avenue in Chicago at approximately 7:20 p.m. on March 7, 2013, with an entry team of three other officers. The apartment had four bedrooms, a kitchen, and a dining and living area without any furniture. On entering, Enriquez saw the middle bedroom with the door open and three people inside. Wilson sat on a bed and another man, later identified as Richard Washington, was in a chair. A woman stood to the right. One officer entered the bedroom and approached Washington. Enriquez followed and approached Wilson. A third officer, Janiszewski, entered last and approached the woman. Wilson held a straw that appeared to have been cut to 1 ½ inches. In front of Wilson, Enriquez saw a powdery substance resembling narcotic residue. Enriquez ordered Wilson to walk towards him. As Wilson approached, he put his right hand in his right pocket, removed two zip lock bags, and dropped them on the floor. The bags contained white powder, which Enriquez suspected was heroin. Janiszewski recovered the bags and Enriquez placed Wilson in custody. The residue that Enriquez saw in front of Wilson was not recovered, nor did officers find proof that Wilson resided in the apartment.

¶ 4 Enriquez never saw Wilson handle the handgun which Janiszewski recovered under the mattress where he had been sitting. The officers also found a scale and 9-millimeter bullets on the window sill of another bedroom, as well as other unspecified contraband not attributed to Wilson. At the police station, Wilson told Enriquez that "him and his girl" got the gun for New Year's and that he knew she had the weapon. Wilson claimed that the gun was his and not his girlfriend's. He stated that he wanted to get rid of the gun and that he did not want his girlfriend

to get in trouble. Only Enriquez was present when Wilson made these statements, which were not written down.

¶ 5 On cross-examination, Enriquez testified that, in addition to the three individuals in the bedroom, there were two other people in the apartment when the officers entered, but that he did not make contact cards for either individual. His arrest report and case report omitted the name of the woman who was in the bedroom. Enriquez acknowledged that both reports stated that the substance in the bags was brown. He also acknowledged that at a preliminary hearing, he testified that Wilson dropped a small "item" and not "items."

¶ 6 Officer Janiszewski's testimony essentially corroborated Enriquez's account. When Enriquez alerted her to two small plastic bags of suspect heroin on the floor, Janiszewski recovered the two bags and inventoried them under one number (12849372). She also recovered a straw with suspect heroin that was on the bed and inventoried it separately (12849369). She discovered a loaded, semiautomatic .22 caliber Beretta handgun between the mattress and box spring. She denied seeing Wilson handle the gun, which she showed to Enriquez and inventoried.

¶ 7 The parties stipulated that Peter Anzalone, a forensic chemist at the Illinois State Police crime lab, would testify that he received two heat-sealed envelopes, one containing a brown rock-like substance (12849372) and another containing residue from the straw (12849369). Both items tested positive for heroin. The rock-like substance weighed 1.04 grams.

¶ 8 The State admitted a certification showing that Wilson was convicted of possession of a controlled substance in 2009. The State then rested its case and defense counsel moved for a finding at the close of the State's case, which the court denied.

¶ 9 Richard Washington testified that he was a friend of Wilson's and he accompanied him to the apartment on March 7, 2013. They went to a small bedroom and talked with a man and a

woman who served spaghetti. While eating, Washington heard a "big pop noise" and people "hollering and screaming." The bedroom door, which was cracked open, "flew open" and two or three people entered with flashlights. One person punched Washington in the face and Washington grabbed him after losing balance, but let go when Wilson told him it was the police. Officers handcuffed Wilson to Washington, who left the room first and heard an officer say "oh look what I got here." Washington turned and saw an officer standing in the bedroom, near the door, holding a plastic object, but Washington did not see where the object came from.

Washington denied that Wilson had a straw in his hand or that any white powder was in front of him. Washington also denied that he saw Wilson with two packets of narcotics or a gun.

¶ 10 On cross-examination, Washington acknowledged meeting with Thomas Finn, an investigator for the Cook County State's Attorney's Office, on August 9, 2013. According to Washington, he told Finn that he went with Wilson to 5402 South Carpenter and was invited upstairs for spaghetti. He told Finn that an officer punched him and that police searched him without finding anything, and also searched Wilson. Washington denied telling Finn that he went to the apartment specifically to have spaghetti or that he heard people knock on the door and knew when they entered that they were officers with a search warrant. He also denied telling Finn that the officers found heroin on Wilson.

¶ 11 In rebuttal, the State submitted the stipulated testimony of Investigator Finn, who would testify that he interviewed Washington in August 2013. According to Finn, Washington indicated that he drove Wilson to 5402 South Carpenter to eat spaghetti. While they were eating, the police knocked on the door and entered the residence with a search warrant. Officers searched Wilson and Washington and found heroin on him, but found nothing on Washington.

¶ 12 At the close of trial, the court reviewed the events described by Enriquez and Janiszewski. The court stated:

"Chicago Police Officers executing a search warrant entering the second floor apartment at the subject address, going to the middle bedroom in which they see the defendant and two other individuals.

They see the defendant sitting on the bed. They see the defendant with a straw and powdery residue in front of him. Police detained everyone in the room.

As the defendant was being removed from the room, the defendant dropped two items of suspect Heroin to the floor. Those items were recovered by the police officers.

The bedroom was further searched underneath the mattress and the box spring. Officers found .22 caliber handgun that was loaded. The defendant was arrested and taken to the police station along with Mr. Washington.

At the station—I am sorry—in the house or apartment there was [no] proof of residency connecting the defendant to the apartment. At the station the defendant was Mirandized and gave a statement that he knew his girl had the gun.

The character of that statement was one not of his possessing but his attempt to protect his girl which was foolish."

The court found Wilson guilty of possession of less than 15 grams of heroin and not guilty of unlawful use or possession of a weapon by a felon. Later, the court denied Wilson's posttrial motion and, based on his extensive criminal background, which included four convictions for possession of a controlled substance, possession of prescription forms, second-degree murder, and retail theft, sentenced him to an extended term of six years in prison.

¶ 13 On appeal, Wilson contends that the evidence failed to establish his guilt beyond a reasonable doubt where Enriquez's testimony was unworthy of belief. Wilson notes that Enriquez's trial testimony describing the appearance of the drugs and the number of bags contradicted his testimony at a preliminary hearing, and urges that Enriquez's account was uncorroborated where Janiszweski never saw him in possession of the drugs. Wilson further argues it is implausible that he would incriminate himself by dropping the drugs when he already had four prior convictions for possession of a controlled substance.

¶ 14 The standard of review on a challenge to the sufficiency of the evidence is whether, after reviewing 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. Brown*, 2013 IL 114196, ¶ 48. The reviewing court will not retry the defendant or substitute its judgment for that of the trier of fact on questions involving conflicts in the testimony, the credibility of witnesses, or the weight of the evidence. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011); *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). To sustain a conviction, "[i]t is sufficient if all of the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt." *Jackson*, 232 Ill. 2d at 281. A defendant's conviction will be reversed only if the evidence is so improbable or unsatisfactory that there remains a reasonable doubt of the defendant's guilt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009). It follows that where the finding of guilt depends on eyewitness testimony, a reviewing court must decide whether, in view of the record, a trier of fact could reasonably accept the testimony as true beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 279 (2004).

¶ 15 To sustain a conviction for possession of a controlled substance, the State must show that defendant had knowledge and possession of the drugs. 720 ILCS 570/402 (West 2014); *People v.*

*Givens*, 237 Ill. 2d 311, 334-35 (2010). On appeal, Wilson challenges the testimony of Officer Enriquez, whose testimony tied him to the baggies of heroin, as improbable and inconsistent.

¶ 16 The inconsistencies noted by Wilson are minor and do not raise a reasonable doubt of his guilt. Wilson observes that Enriquez's case report, arrest report, the property inventory sheet and the stipulation entered between the parties describe the recovered substance as brown and rock-like. However, Enriquez testified at trial that the dropped bags contained a "white powdery substance." In addition, at trial Enriquez testified that Wilson dropped "two items" and on cross-examination acknowledged that at a preliminary hearing, he testified that Wilson dropped "a small item." We find the inconsistencies noted by Wilson to be minor. *People v. Gill*, 264 Ill. App. 3d 451, 458 (1992) (minor inconsistencies between witnesses' testimony or within one witness's testimony affect weight of evidence but do not automatically create a reasonable doubt of guilt) (citing *People v. Adams*, 109 Ill. 2d 102, 115 (1985)); see also, *People v. Gustowski*, 102 Ill. App. 3d 750, 753-54 (1981) (where officers' testimony at preliminary hearing conflicted with their testimony at trial, trier of fact "reasonably could have found [inconsistencies] immaterial in view of the totality of circumstances"). Further, the fact that Janiszewski did not see Wilson in possession of the drugs is inconsequential because the testimony of one officer may sustain a conviction and, in this case, Enriquez's testimony was not improbable. *Siguenza-Brito*, 235 Ill. 2d at 228 (testimony of one witness, if positive and credible, is sufficient to convict); *People v. Bradford*, 187 Ill. App. 3d 903, 918 (1989) ("The testimony of a single law enforcement officer is sufficient to support a conviction in a narcotics case."). Further, although Janiszewski did not actually see Wilson holding the straw or dropping the items, her recovery of the straw and the baggies corroborates Enriquez' testimony.

¶ 17 Contrary to Wilson's assertion that his prior drug convictions would cause him to conceal the drugs rather than drop them, it does not defy common sense that he would abandon two bags of heroin in the presence of police here. Wilson's conduct could reasonably be seen as an attempt to relinquish drugs before officers inevitably found them on his person, considering that Enriquez had ordered Wilson to approach him. We find unpersuasive Wilson's citation to *People v. Warren*, 40 Ill. App. 3d 1008, 1009 (1976), in which an officer testified that when he stopped a vehicle, the defendant had an open bag of marijuana on the floor between his feet, which he made no attempt to conceal even as the police approached. Here, by contrast, Enriquez testified that he saw Wilson discarding the drugs from his pocket when confronted by police. As our supreme court has recognized, "[f]ar from being contrary to human experience, cases which have come to this court show it to be a common behavior pattern for individuals having narcotics on their person to attempt to dispose of them when suddenly confronted by authorities." *People v. Henderson*, 33 Ill. 2d 225, 229 (1965) (and cases cited therein). More recently, in *People v. Moore*, 2014 IL App (1st) 110793-B, this court found it common and believable for a criminal to dispose of contraband after becoming aware of a police presence. *Id.* at ¶ 10 (defendant's conduct in removing weapon from his person while officers were nearby was consistent with his situation and not improbable). We cannot say that the trial court had any reason to disbelieve Enriquez's testimony.

¶ 18 Finally, Wilson attempts to analogize this case to so-called "dropsy" cases in which police officers testify that contraband was discarded in their presence in order to justify an otherwise illegal detention and search. But the analogy fails because the officers had a warrant to enter and search the premises and Enriquez could have searched Wilson in any event. Thus,



1-13-4024

we can discern no basis to conclude that Enriquez would have been motivated to fabricate Wilson's conduct in dropping the baggies.

¶ 19 For all the foregoing reasons, we affirm the judgment of the trial court.

¶ 20 Affirmed.