2016 IL App (5th) 140076-U

NO. 5-14-0076

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Effingham County.
	)	
v.	)	No. 13-CF-38
	)	
HASSAN HOVIS,	)	Honorable
	)	Kimberly G. Koester,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE MOORE delivered the judgment of the court.
Justices Welch and Chapman concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not abuse its discretion in allowing the admission of other-crimes evidence in the form of text and Facebook messages evidencing the defendant's previous dealings with cannabis as evidence of the defendant's knowledge with regard to the current charge of aiding another in the delivery of cocaine and the jury's verdict of guilty on said charge is supported by the evidence.

¶ 2 The defendant, Hassan Hovis, appeals his conviction, in the circuit court of Effingham County, of the offense of unlawful delivery of a controlled substance in violation of section 401(d)(i) of the Illinois Controlled Substances Act, under a theory of accountability. 720 ILCS 570/401(d)(i) (West 2012); 720 ILCS 5/5-2 (West 2012). On

appeal, the defendant argues that the circuit court committed reversible error when it admitted an exhibit containing text and Facebook messages recovered from his phone as other-crimes evidence and that the State failed to prove him guilty of the charged offense beyond a reasonable doubt. For the following reasons, we affirm.

¶ 3 FACTS

¶ 4 On September 18, 2013, the defendant was charged by information with the offense of unlawful delivery of a controlled substance under an accountability theory. 720 ILCS 570/401(d)(i) (West 2012); 720 ILCS 5/5-2 (West 2012). According to the information, on February 12, 2013, the defendant, or someone for whose actions the defendant is legally accountable, knowingly delivered less than one gram of a substance containing cocaine to a confidential source of the Effingham police department.

¶ 5 The State filed a motion to allow evidence of other crimes or offenses against the defendant at trial. According to this motion, a search warrant was executed on the defendant's social media accounts,[1] and several personal messages from the defendant's accounts make reference to the defendant selling and arranging the sale of cannabis. According to the State's motion, these messages constitute evidence of the defendant's familiarity with drug transactions and are relevant to establish that the defendant

[1]At a hearing held on October 3, 2013, the State informed the court that the statement in the motion that a search warrant was executed on the defendant's social media accounts was incorrect, and the messages were actually retrieved from a cell phone taken from the defendant at the time of his arrest.

knowingly participated in the delivery of the cocaine in the instant case. A 38-page document was attached to the State's motion, consisting of approximately 105 text messages and 112 Facebook Messenger messages "that appear to relate to illicit drug sales" and were compiled by the Effingham police department high-tech crime investigation unit.

¶ 6 On October 3, 2013, the circuit court held a hearing on the State's motion to admit the aforementioned exhibit as other-crimes evidence. The State described the entries in the exhibit as messages showing that on numerous occasions, the defendant was contacted by individuals looking for cannabis and that the defendant appeared to be agreeing to the sale of cannabis. The State requested that the exhibit be admitted at trial as relevant to the issue of the defendant's knowledge of the cocaine transaction for which he is charged.

¶ 7 In rebuttal, the defendant argued that the messages in question indicate that the defendant was involved in the movement of small amounts of marijuana on different dates and times with different people, but none of them involve Isaih Garcia (the man whom the defendant allegedly aided in the delivery of the cocaine) or the informant, and none of them involve cocaine. The defendant argued that phone messages on different days and times involving the trafficking of small amounts of marijuana in no way establish that he had the intent to involve himself in a cocaine deal on the date in question. Further, the defendant argued that admission of the messages would be highly prejudicial and impermissible evidence that the defendant had the propensity to commit the crime. The circuit court granted the State's motion, finding that the necessary

elements of admission of other-crimes evidence against the defendant were present and the probative value of such evidence as it pertained to the defendant's knowledge of the drug transaction at issue was not substantially outweighed by any prejudicial effect.

¶ 8 A jury trial commenced on November 5, 2013. Prior to the start of the trial, the defendant requested the circuit court to reconsider its prior order allowing for the admission of the text and Facebook messages involving cannabis sales. The circuit court denied the motion to reconsider. Thereafter, evidence was adduced at the trial as follows.

¶ 9 Aaron Lange, a detective with the Effingham police department, testified that on February 12, 2013, during the course of a cocaine delivery investigation, he stopped a white Ford Expedition at the behest of an investigator, Tony Stephens, who advised him the Expedition was the suspect vehicle. The driver of the vehicle was the defendant. On cross-examination, Mr. Lange testified that he stopped the Expedition about three blocks away from St. Anthony's Hospital and Isaih Garcia was in the front passenger seat.

¶ 10 Tony Stephens, another detective with the Effingham police department, testified that he had been investigating narcotics crimes for approximately 10 years. On February 12, 2013, he, along with other Effingham police officers and an investigator with the Illinois State Police Drug Task Force, executed a "controlled buy" operation wherein a confidential informant would purchase cocaine from Isaih Garcia. Detective Stephens testified he gave the informant $150 of the Effingham police department's money and arranged that the informant would meet Garcia at St. Anthony's Hospital near the emergency room entrance. Detective Stephens then transported the informant and dropped him off at that location, while maintaining surveillance of the area.

¶ 11 Detective Stephens testified that approximately 20 minutes later, a white SUV showed up at the designated location and the informant got into the back of the vehicle. The SUV drove around the parking lot, pulled out onto the street, pulled back into the parking lot, and then parked within two cars from Detective Stephens. The informant then exited the vehicle and walked over towards a flag pole until the SUV left. During this time, Detective Stephens was able to determine that the registered owner of the SUV was the defendant.

¶ 12 Once the SUV left the parking lot, the informant walked to Detective Stephens' vehicle and turned over a small ziplock bag which field tested positive for cocaine. Detective Stephens then directed his fellow officers to make a traffic stop on the SUV. The officers effectuated a traffic stop on the SUV, and took both Garcia and the defendant into custody.

¶ 13 At the Effingham County jail, Detective Stephens read the defendant his *Miranda* rights and the defendant agreed to talk to him. A waiver of *Miranda* rights signed by the defendant was admitted into evidence as People's Exhibit 1. After speaking for a few minutes to the defendant, Detective Stephens determined that the defendant wanted to cooperate with the police and give a recorded statement. A CD containing an audio recording of the defendant's statement to the police was admitted into evidence as People's Exhibit 2, which Detective Stephens authenticated.

¶ 14 People's Exhibit 2 was played for the jury and has been reviewed by this court. On the recording, the defendant gives the following account of the events occurring on the day in question. The defendant received a text message from Garcia asking the

defendant to give him a ride to "pick up some money." The defendant told Garcia that he did not have gas and Garcia offered to give the defendant gas money. The defendant then picked up Garcia and drove to a gas station where Garcia gave the defendant $10 for gas. Garcia then told the defendant to drive to the hospital and pick up the man who turned out to be the informant. Garcia instructed the defendant to drive around, and during that time the defendant observed Garcia "make the drop." Upon request for clarification, the defendant explained that as he was driving around, he witnessed Garcia hand the man a "one gram" bag of cocaine and the man hand Garcia between $100 and $150 in cash. Detective Stephens then asked the defendant how much gas Garcia was going to put in the defendant's vehicle or if he was just going to "fill it up." The defendant answered, "oh no he already gave me gas. He gave me ten bucks … well gave me ten bucks earlier and then … pocketed the rest … or … before we got there."

¶ 15 In response to questions posed by Detective Stephens, the defendant stated that he and Garcia had been friends since "around July." Including the incident at issue, the defendant stated that he had witnessed Garcia sell drugs on two occasions. On the other occasion he witnessed Garcia sell drugs to a man in the park, but he did not know what type of drug Garcia was selling on that occasion. In addition, the defendant stated that Garcia had sold the defendant small amounts of cannabis, such as $5 worth, on approximately 15 occasions in the past. However, the defendant stated that Garcia had never sold or given him cocaine or any other drugs. The defendant also stated that he knew that Garcia did not have a job and that he basically sold drugs for a living.

¶ 16 Detective Stephens identified People's Exhibit 3 as a small bag of white powder which field tested positive and later confirmed positive for cocaine. The parties stipulated that the exhibit is the cocaine that was purchased by the informant from Garcia on February 12, 2013.

¶ 17 On cross-examination, Detective Stephens testified that the controlled buy that occurred on February 12, 2013, was part of an ongoing investigation of Garcia and that another confidential source of the Illinois State Police had made several buys involving Garcia over several months prior to the incident at issue in the case at bar. In preparation for the controlled buy that occurred in this case, Detective Stephens' informant set up the buy with Garcia several days prior to February 12. All conversations in preparation for the buy were between the informant and Garcia, and the defendant was not involved at all in any communications that were made prior to the buy. Detective Stephens photocopied the money given to the informant to make the buy, and the bills with matching serial numbers were later recovered on Garcia. None of the bills were recovered from the defendant. Detective Stephens testified that the defendant was cooperative following his arrest, and during his voluntary statement, the defendant told Detective Stephens that he did not know that Garcia was going to sell drugs to the man until it was actually happening.

¶ 18 John Maguire testified that he is a high technology criminal investigator with the City of Effingham. He conducts digital forensics for hand held devices and cell phones, as well as for computer and internet communications. Detective Maguire testified as to his specialized training in the recovery of data from cellular telephones, and identified

People's Exhibit 4 as the defendant's cell phone. People's Exhibit 4 was admitted into evidence without objection. After applying for and obtaining a search warrant to search the phone, Detective Maguire examined the phone, finding email accounts as well as a Facebook account registered to the defendant.

¶ 19 Detective Maguire testified that, using a forensic software program to analyze the cell phone, he was able to extract various text messages and Facebook private messages based on search criteria that retrieved messages having content related to drug terminology or references. Detective Maguire identified People's Exhibit 5 as a printout of the items he retrieved using this method. Defense counsel objected to admission of this exhibit, consistent with his previous objection to the State's motion *in limine*. After argument outside of the presence of the jury, the circuit court again overruled the defense objection. Our review of People's Exhibit 5 reveals approximately 44 pages of text and Facebook messages appearing to be communications with unknown individuals whereby individuals request the defendant to procure marijuana for the individuals and the defendant affirms that he will procure or seek to procure said marijuana.

¶ 20 On cross-examination, Detective Maguire testified that none of the messages in the document are between the defendant and Garcia and none of them talk about a cocaine deal happening on February 12, 2013. Most of the messages involve people requesting the defendant to get small amounts of marijuana and the defendant responding that he had marijuana or was seeking marijuana. Detective Maguire also testified that there were approximately 19 messages recovered between the defendant and Garcia that were not included in the exhibit. These messages talked about "hey come pick me up,"

"I'm ready to roll bro," and "stuff like that." However, these text messages did not contain any "drug language." On redirect, Detective Maguire testified that he recovered approximately 30 texts between the defendant and Garcia "concerning come pick me up or transporting or giving rides." On recross, Detective Maguire testified that the 19 messages between the defendant and Garcia occurred on February 12, 2013.

¶ 21 Following the admission into evidence of People's Exhibit 5, the State rested. The defendant moved for a directed verdict, arguing that the State failed to meet its burden of proving that the defendant is legally responsible for the behavior of Garcia, either in planning or during the offense. The circuit court denied the motion for a directed verdict. The defense then rested without presentation of evidence.

¶ 22 Following closing arguments, the circuit court made the following relevant instructions to the jury:

> "Evidence has been received that the [d]efendant has been involved in conduct other than that charged in the information. This evidence has been received on the issues of the [d]efendant's intent and knowledge and may be considered by you only for that limited purpose. It is for you to determine whether the [d]efendant was involved in that conduct and if so, what weight should be given to this evidence on the issue of intent and knowledge.
>
> A person is legally responsible for the conduct of another person when either before or during the commission of an offense and with the intent to promote or facilitate the commission of the offense, he knowingly solicits, aids, abets, agrees

to aid or attempts to aid the other person in the planning or commission of the offense.[2]

A person commits the offense of a delivery of a controlled substance accountability when he or one for whose conduct he is legally responsible, knowingly delivers a substance containing a controlled substance.

To sustain the charge of delivery of a controlled substance accountability the State must prove the following proposition. That the [d]efendant or one for whose conduct he is legally responsible knowingly delivered a substance containing cocaine, a controlled substance."

¶ 23 Following jury instructions, the jury retired to deliberate. During their deliberations, the jury requested to hear the audio recording of the defendant's statement

---

[2]We note that, as the State points out, the circuit court did not give this limiting instruction at the time that Exhibit 5 was admitted. However the defendant did not request that the circuit court give that instruction at that time during the trial. As our supreme court has recognized, the better practice is to instruct the jury, not only at the close of the case, but also at the time other-crimes evidence is admitted, of the limited purpose for which it may consider other-crimes evidence. *People v. Heard*, 187 Ill. 2d 36, 60 (1999) (citing Illinois Pattern Jury Instructions, Criminal, No. 3.14, Committee Note (3d ed. Supp. 1996)). However, the circuit court's failure to give the limiting instruction to the jury at the time the evidence is admitted does not mandate reversal where the instruction is given at the close of the case. *Id.*

to the police a second time, and this was granted. Following deliberations, the jury returned a verdict finding the defendant guilty of delivery of a controlled substance based on accountability. The circuit court entered judgment on the verdict accordingly.

¶ 24 On December 5, 2013, the defendant filed a motion for a judgment notwithstanding the verdict, raising the same issues as those on appeal. At a sentencing hearing on January 16, 2014, the circuit court first heard argument and denied the motion. After considering a presentence investigation report, argument by counsel, and the defendant's statement in allocution, the circuit court sentenced the defendant to two years of probation, 10 days in jail with time served, and a $500 fine plus court costs and other statutory fees and assessments. On February 14, 2014, the defendant filed a notice of appeal.

¶ 25 ANALYSIS

¶ 26 The first issue the defendant raises on appeal is whether the circuit court committed prejudicial error in admitting People's Exhibit 5, consisting of text and Facebook messages between the defendant and other individuals evidencing the sale of small amounts of cannabis. The defendant argues that these messages were irrelevant to any question that the jury was required to answer in determining whether to convict the defendant in the instant case, that it was cumulative of other evidence, and highly prejudicial to the defendant. Accordingly we begin our analysis with the standards applicable to the admission of other-crimes evidence.

¶ 27 Pursuant to the common law, other-crimes evidence was not admissible to show a defendant's propensity to commit crimes. *People v. Watkins*, 2015 IL App (3d) 120882,

¶ 45 (citing *People v. Dabbs*, 239 Ill. 2d 277, 283 (2010)). However, our supreme court has repeatedly held that evidence of other crimes is admissible if it is relevant for any purpose other than to show the defendant's propensity to commit crimes. *People v. Wilson*, 214 Ill. 2d 127, 135 (2005). These principles have been codified as Illinois Rules of Evidence 404 (eff. Jan. 1, 2011).

¶ 28 Permissible purposes for the admission of other-crimes evidence include *modus operandi*, intent, identity, motive, or absence of mistake. *Wilson*, 214 Ill. 2d. at 135-36. Such evidence is also admissible to show, by similar acts or incidents, that the act in question was not performed inadvertently, accidentally, involuntarily, or without guilty knowledge. *Id.* at 136. Where evidence of other crimes is offered for these purposes, it is admissible so long as it bears some threshold similarity to the crime charged. *Id.* In addition, the circuit court must weigh the probative value of the evidence against the prejudicial effect and should exclude the evidence, even if it is relevant, if the prejudicial effect substantially outweighs the probative value. *People v. Watkins*, 2015 IL App (3d) 120882, ¶ 45 (citing *People v. Pikes*, 2013 IL 115171, ¶ 11). With regard to the erroneous admission of other-crimes evidence, the *Watkins* court explained the principles that have been set forth by the supreme court as follows:

> "Although the erroneous admission of other-crimes evidence carries a high risk of prejudice and will ordinarily require a reversal, the erroneously admitted evidence must be so prejudicial as to deny the defendant a fair trial; that is, the erroneously admitted evidence must have been a material factor in the defendant's conviction

such that without the evidence the verdict likely would have been different. [Citation.] If the error was unlikely to have influenced the jury, the erroneous admission of other-crimes evidence will not warrant reversal. [Citation.]" *Id.*

¶ 29 Having set forth all the considerations relevant to the circuit court's decision to admit other-crimes evidence, we turn to our standard of review. Citing to an array of supreme court precedent on the subject, the *Watkins* court set forth a detailed statement of this court's role on review as follows:

"A determination of the admissibility of evidence is in the sound discretion of the trial court and will not be reversed on appeal absent an abuse of discretion. [Citations.] Under the abuse of discretion standard, '[t]he reviewing court owes some deference to the trial court's ability to evaluate the impact of the evidence on the jury.' [Citation.] The threshold for finding an abuse of discretion, therefore, is a high one and will not be overcome unless it can be said that the trial court's ruling was arbitrary, fanciful, or unreasonable, or that no reasonable person would have taken the view adopted by the trial court. [Citation.] Reasonable minds can disagree about whether certain evidence is admissible without requiring a reversal of a trial court's evidentiary ruling under the abuse of discretion standard. [Citation.]"[3] *Id.* ¶ 35.

[3]We reject the defendant's argument, citing *People v. Aguilar*, 265 Ill. App. 3d 105, 109 (1994), that a *de novo* standard of review is applicable in this case because the evidentiary issue on appeal involves a legal issue rather than fact-finding or a credibility

¶ 30 In this case, the circuit court admitted evidence regarding the defendant's communications with a myriad of other unidentified individuals concerning the defendant's procurement of cannabis for potential sale to these individuals. The circuit court found this evidence relevant to an essential issue in this case, which is whether the defendant intended to aid Garcia in his delivery of the cocaine, or whether he was just doing his friend a favor without knowledge of what was to take place. Whether this court would have ruled as did the circuit court is not the issue on review. Rather, we must determine whether reasonable minds can differ as to whether the defendant's previous illegal substance activity, albeit surrounding a substance that differs from the substance at issue in this case, is probative of the issue of the defendant's intent and knowledge in giving Garcia a ride "to pick up money" in the case at bar. If we determine that reasonable minds can differ, then we must defer to the decision of the circuit court pursuant to the well-established abuse of discretion standard of review set forth above.

¶ 31 After careful consideration, we conclude that deference to the circuit court on the admissibility of the other-crimes evidence in this case is required. As pointed out in *Watkins*, "Illinois courts have routinely allowed evidence of a defendant's prior or subsequent drug transactions to be admitted into evidence at trial to establish a

---

determination. *Aguilar* involved the issue of whether or not a statement was inadmissible hearsay. *Id.* *Aguilar* did not involve the admissibility of other-crimes evidence, which as set forth above, the supreme court has repeatedly held is subject to an abuse of discretion standard of review.

defendant's intent to deliver the drug for which the defendant is currently charged or for any other relevant and permissible purpose. [Citations.]" *Id.* ¶ 46. Although in this case, the other-crimes evidence involved the defendant's procurement for sale of cannabis, rather than cocaine, when other-crimes evidence is admitted for any purpose other than *modus operandi*, less similarity is required and only general areas of similarity need to be shown for the other-crimes evidence to be admissible. *Id.* ¶ 47 (citing *People v. Illgen*, 145 Ill. 2d 353, 364 (1991)).

¶ 32 In addition, the fact that a different drug was involved with the other-crimes evidence sought to be admitted does not make the evidence dissimilar to the case at bar. *Id.* (citing *United States v. Hernandez*, 84 F.3d 931, 935-36 (7th Cir. 1996)). This is especially true in light of the fact that Illinois courts have held that the State need not prove that the defendant intended to deliver the exact controlled substance for which he or she is charged, but only must prove that the defendant intended to deliver a controlled substance. See *People v. James*, 38 Ill. App. 3d 594, 596-97 (1976); *People v. Bolden*, 62 Ill. App. 3d 1009, 1012-13 (1978).[4] For all of these reasons, we find that a reasonable judge could find the evidence at issue to be admissible as evidence tending to show the defendant's knowledge and intent regarding the procurement and sale of controlled

[4]We recognize that the jury was instructed in this case that they must find that the defendant knowingly aided the defendant in the delivery of cocaine, rather than the delivery of a controlled substance generally, which is a more stringent standard than the aforementioned cases require.

substances generally to rebut the defendant's assertion that he was unknowingly giving Garcia a ride on the day in question.

¶ 33 Furthermore, we reject the defendant's argument that the other-crimes evidence in the text and Facebook messages was cumulative of evidence presented in the form of the defendant's recorded statement to Detective Stephens. The defendant argues that his statement to police provided sufficient evidence of the defendant's familiarity with drug transactions and therefore the text and Facebook messages were cumulative of that evidence. The defendant's statement to Detective Stephens revealed that the defendant had some familiarity with drug language, could identify a one gram bag of cocaine by sight, and knew Garcia as a drug dealer who sold him marijuana on many occasions and sold another person some unknown drug on at least one other occasion. In contrast, the Facebook and text messages tend to show the defendant's role in procuring controlled substances for others himself, and thus that he did possess some knowledge of the selling of drugs rather than just the buying of drugs. Finally, for the reasons set forth below, we find that even if the Facebook and text messages were erroneously admitted, they were not a material factor in the defendant's conviction such that without the evidence the verdict would have likely been different. See *Watkins*, 2015 IL App (3d) 120882, ¶ 45. For all of these reasons, we find that the circuit court did not abuse its discretion in its admission of People's Exhibit 5.

¶ 34 We now turn to the defendant's argument that the State failed to prove beyond a reasonable doubt that the defendant knowingly or intentionally aided in the cocaine delivery. " 'In assessing whether the evidence against a defendant was sufficient to prove

guilt beyond a reasonable doubt, a reviewing 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 essential elements of the crime beyond a reasonable doubt.' " *People v. Perez*, 189 Ill. 2d 254, 265-66 (2000) (quoting *People v. Taylor*, 186 Ill. 2d 439, 445 (1999), and citing *People v. Batchelor*, 171 Ill. 2d 367, 376 (1996)). "A conviction should not be set aside on grounds of insufficient evidence unless the proof is so improbable or unsatisfactory that a reasonable doubt exists about the defendant's guilt." *Id.* at 266 (citing *Taylor*, 186 Ill. 2d at 445, and *People v. Furby*, 138 Ill. 2d 434, 455 (1990)).

¶ 35 The defendant was charged with unlawful delivery of a controlled substance, cocaine, on a theory of accountability. 720 ILCS 570/401(d)(i) (West 2012); 720 ILCS 5/5-2 (West 2012). "In Illinois, a person is legally accountable for another's criminal conduct when '[e]ither before or during the commission of an offense, and with the intent to promote or facilitate such commission, he solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense.' " *Perez*, 189 Ill. 2d at 266 (quoting 720 ILCS 5/5-2 (West 1994), and citing *People v. Dennis*, 181 Ill. 2d 87, 96 (1998)). Intent may be inferred from the character of defendant's acts as well as the circumstances surrounding the commission of the offense. *Id.* (citing *People v. Stanciel*, 153 Ill. 2d 218, 234 (1992)). In fact, circumstantial evidence is often the only way to prove a defendant's intent. *Watkins*, 2015 IL App (3d) 120882, ¶ 50 (citing *People v. Rudd*, 2012 IL App (5th) 100528, ¶ 14). Finally, as previously mentioned, despite the more stringent instructions that were given to the jury requiring they find that the defendant intended to aid Garcia in the delivery of cocaine, the law requires only that the

defendant knowingly aided Garcia in the delivery of a controlled substance and does not require that the defendant knew the substance was cocaine. See *People v. James*, 38 Ill. App. 3d 594, 596-97 (1976); *People v. Bolden*, 62 Ill. App. 3d 1009, 1012-13 (1978).

¶ 36 After careful consideration of the record in light of the aforementioned principles, we conclude that, based on the testimony at trial, along with the defendant's statement, a rational jury could have found the defendant guilty of unlawful delivery of a controlled substance based on accountability beyond a reasonable doubt. The jury heard evidence, based on Officer Maguire's testimony regarding text messages between the defendant and Garcia, from which it may have inferred the defendant had a history of giving rides to Garcia. In addition, the defendant's statement presented circumstantial evidence to the jury regarding the defendant's state of mind on the day in question. Although the defendant asserted in his statement that Garcia asked him to give him a ride to "pick up some money," it was evident from the defendant's statement that he knew Garcia sold controlled substances and that this was the only activity Garcia engaged in to earn money. Furthermore, even if a fact finder assumed that the defendant did not know at the outset that he was driving Garcia to sell a controlled substance, a reasonable jury could conclude that he did know that Garcia was going to deliver a controlled substance at some time during the ride, such as when Garcia instructed him to pick up the man who turned out to be the confidential informant and then drive him around for a minute. That is when, according to the defendant, Garcia "made the drop." A rational jury could conclude, based on the tone and language of the defendant's interview, that the defendant was not telling the truth when he told Detective Stephens he did not know what was to

take place. This conclusion could be further bolstered by a potential inconsistent statement in the interview. Whereas the defendant first stated that Garcia gave him $10 for gas at the outset of the ride, when Detective Stephens inquired about the gas a second time, the defendant stated, "oh no he already gave me gas. He gave me ten bucks … well gave me ten bucks earlier and then … pocketed the rest … or … before we got there." Considering all of this evidence in a light most favorable to the State, we cannot say that no rational jury would have convicted the defendant of knowingly aiding in the delivery of a controlled substance. Accordingly, we decline to disturb the jury's verdict.

¶ 37 CONCLUSION

¶ 38 For the foregoing reasons, we affirm the defendant's conviction of the offense of unlawful delivery of a controlled substance in violation of section 401(d)(i) of the Illinois Controlled Substances Act, under a theory of accountability. 720 ILCS 570/401(d)(i) (West 2012); 720 ILCS 5/5-2 (West 2012).

¶ 39 Affirmed.