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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 14 CR 13182
)	
PENNY YANKIEWAY,)	Honorable
)	Mauricio Araujo,
Defendant-Appellant.)	Judge presiding.

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

ORDER

- ¶ 1 *Held:* The State presented sufficient evidence to prove defendant guilty beyond a reasonable doubt of delivery of less than one gram of a controlled substance.
- ¶ 2 Following a jury trial, defendant Penny Yankieway was convicted of one count of delivery of a controlled substance and sentenced to six years' imprisonment. On appeal, defendant contends that her conviction should be reversed because the State did not prove beyond a reasonable doubt that she delivered heroin to an undercover police officer. We affirm.

¶ 3 Defendant was arrested on July 11, 2014, as a result of a Chicago police narcotics investigation near Roosevelt Road and Avers Avenue in Chicago. She was charged with delivery of less than one gram of heroin (720 ILCS 570/401(d) (West 2014)). The following evidence relevant to this appeal was adduced at trial.

¶ 4 Chicago police officer William Lepine testified that, at approximately 10:55 p.m. on July 11, 2014, he was working undercover with the narcotics unit and was assisted by approximately seven surveillance and enforcement officers. As the undercover officer, he was “basically tasked with approaching the people on the street and trying to purchase narcotics.” Lepine drove to the area near the intersection of Roosevelt and Independence Boulevard, a “narcotics area,” parked, and walked west on Roosevelt.

¶ 5 Lepine approached a black woman, later identified in court as defendant, on the southwest corner of Roosevelt and Avers. She “had a camouflage hat on, red shirt, blue jean shorts and black sandals, flip-flops.” He “asked her if the blows were out here this late.” From experience, Lepine knew “blows” was a term for heroin. Defendant responded, “[Y]es, I’ll take you there.” He followed her as she walked south on Avers. Defendant “asked how many [Lepine] wanted” and told him to give her the money. Lepine testified, “Bags of heroin are typically \$10. So asking her for three, I naturally gave her \$30.” She told him to wait there. Lepine observed defendant walk further south, but then he “went off to the side and stopped watching her.”

¶ 6 Lepine testified that, later, “[defendant] was walking up the sidewalk northbound when [he] kind of peeked around the corner and met her right on the sidewalk.” She gave him “two cigarette butts that were hallowed [*sic*] out and had Ziploc bags inside of them, inside of the

cigarette butt, containing heroin.” Lepine had seen drugs packaged that way before. He testified that, though he paid for three bags and only received two, this was common in his experience.

¶ 7 Lepine left the area and walked east on Roosevelt towards Independence, where his car was parked. Passing a surveillance officer, he gave the officer a “head nod” to signal that “it was a positive transaction.” Lepine also reported via radio that that it was a “positive transaction” once he arrived at his car. Five minutes later, Lepine drove to approximately 3844 West Roosevelt Road and observed that officers had detained defendant, who was wearing the same clothing as earlier. Lepine later inventoried the suspect heroin that defendant had given him.

¶ 8 On cross-examination, Lepine testified that he remembered defendant wore a camouflage hat, but could not recall the style of hat. He confirmed that he received marked currency to use in the drug buy. He acknowledged that he lost sight of defendant after the transaction took place.

¶ 9 Officer Eric Shearer testified that, at approximately 10:55 p.m. on July 11, 2014, he was a member of a surveillance team assigned to an undercover drug purchase. He was parked on the north side of Roosevelt, “slightly east of Avers.” He saw Lepine walk westbound on Roosevelt and stop at the southwest corner of Roosevelt and Avers. Lepine approached a black woman standing on the corner who was “wearing a camouflage print green hat, wearing a red shirt, blue jean shorts and black sandals.” The pair engaged in a conversation and then walked south on Avers. They stopped and Lepine handed something to the woman, who then departed further down Avers alone, out of Shearer’s view. She returned in “under a minute” and handed Lepine something. Lepine walked to the north side of Roosevelt and walked east “out of the area.” The woman walked a block west to the northwest corner of Roosevelt and Springfield Avenue.

¶ 10 Shearer moved his vehicle west on Roosevelt to “keep an eye” on the woman. He stopped when the woman arrived at the northwest corner of Roosevelt and Springfield but lost sight of her when she “moved slightly westbound and then entered some sort of doorway.” She reappeared in “under a minute,” wore the same clothing, and walked east on the north side of Roosevelt, towards Shearer’s location. As the woman got closer, Shearer had an opportunity to look at her face. He identified defendant in court as the woman that he saw that night.

¶ 11 When defendant was approximately 20 feet away from Shearer, officers passed Shearer going west on Roosevelt, stopped, got out, and detained her. Shearer did not see “any other black females out there that were wearing a camouflage hat, a red shirt and black sandals.” Nor did he see anyone near Lepine and defendant when they made the transaction.

¶ 12 On cross-examination, Shearer testified that he never investigated the building in to which defendant temporarily disappeared after the transaction with Lepine. He could not remember the type of camouflage hat defendant had been wearing and acknowledged that her shirt was multicolored, but he testified that “red was the dominant color.” No drugs or marked currency were recovered from defendant upon arrest.

¶ 13 Linda Jenkins, a forensic scientist for the Illinois State Police, testified that she received two cigarette butts with zip-top bags inside them. She tested the white powder in each bag and concluded that the substances contained heroin weighing a combined total of .4 grams.

¶ 14 Defendant moved for a directed verdict, but the trial court denied the motion. Defendant presented no evidence.

¶ 15 The jury found defendant guilty of delivery of less than one gram of heroin. The trial court denied defendant's motion for a new trial and sentenced her as a Class X offender to six years' imprisonment.

¶ 16 On appeal, defendant contends that there was insufficient evidence to prove her guilty beyond a reasonable doubt of delivery of a less than one gram of heroin.

¶ 17 On a challenge to the sufficiency of the evidence, we inquire “ ‘whether, after 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.’ ” (Emphasis omitted.) *People v. Davison*, 233 Ill. 2d 30, 43 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In so doing, we draw all reasonable inferences in favor of the State (*Davison*, 233 Ill. 2d at 43) and we do not retry the defendant (*People v. Collins*, 106 Ill. 2d 237, 261 (1985)). The State must prove each element of an offense beyond a reasonable doubt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). It is within the province of the trier of fact “to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence.” *Id.* at 228. We will not overturn a criminal conviction “unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt.” *People v. Givens*, 237 Ill. 2d 311, 334 (2010).

¶ 18 To sustain a conviction for delivery of a controlled substance, the State must prove that the defendant knowingly delivered a controlled substance. 720 ILCS 570/401(d) (West 2014); *People v. Brown*, 388 Ill. App. 3d 104, 108 (2009).

¶ 19 Lepine testified that he approached defendant as she stood on the corner of Roosevelt and Avers. He asked her for “blows,” gave her \$30, and received two zip-top bags of heroin. Lepine left

the area, but Shearer, who had observed the events from a distance, observed defendant enter a building and reappear less than a minute later. Within minutes, enforcement officers arrested defendant and Lepine returned to the scene and identified defendant as the person from whom he purchased heroin. This evidence was sufficient to prove beyond a reasonable doubt that defendant knowingly delivered the heroin. See *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009) (“The testimony of a single 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.”).

¶ 20 Defendant, nevertheless, argues that her conviction should be reversed because of inconsistencies in the evidence against her, as the police did not recover the \$30 in marked currency upon arresting defendant and “no drugs were found on her person, in the building she came out of; nor the doorway where she was seen going into.” We disagree.

¶ 21 It is the responsibility of the trier of fact to resolve inconsistencies and draw reasonable inferences from the evidence. See *People v. Phillips*, 2015 IL App (1st) 131147, ¶ 16. Based on the jury’s verdict, it is clear that any inconsistencies were resolved in favor of the State. In doing so, the jury was not required to disregard the inferences that flow from the evidence, or search out all possible explanations consistent with a defendant’s innocence and raise them to a level of reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 71 (citing *People v. Wheeler*, 226 Ill. 2d 92, 117 (2007)).

¶ 22 The State’s burden to prove defendant guilty for the delivery of heroin only required proof of defendant knowingly delivering heroin, not that she was in possession of the marked currency or that she had additional heroin to sell. 720 ILCS 570/401(d) (West 2014). Although

the police never recovered the prerecorded funds given to defendant in the controlled buy or any additional heroin beyond what she sold Lepine, neither of these facts undermine the jury's finding of guilt in this case. The evidence that defendant delivered heroin to Lepine was sufficient to prove beyond a reasonable doubt that she delivered less than one gram of heroin, and we will not substitute our judgment for that of the trier of fact. *Siguenza-Brito*, 235 Ill. 2d at 224-25.

¶ 23 Defendant next argues that there was insufficient evidence of her identity as the woman who sold heroin to Lepine, as there were discrepancies in how Lepine and Shearer described her shirt and hat and the officers could have mistaken her for someone else. She explains that the officers described her shirt as both red and multicolored and that “it was a late summer day on a busy street.” Defendant’s claims are belied by the record. First, a rational trier of fact could have found that the officers’ descriptions of defendant’s clothing supported the identification of her as the woman who sold Lepine heroin. Lepine and Shearer testified that defendant wore a camouflage hat, but neither could recall its type when pressed by defense counsel. The officers also described defendant as wearing a red shirt, but Shearer, on cross-examination, acknowledged that her shirt was multicolored and “red was the dominant color.” If any discrepancy between the officers’ descriptions existed, the discrepancy, in and of itself, would not generate a reasonable doubt of the positive identifications the officers made. *People v. Slim*, 127 Ill. 2d 302, 309 (1989). Second, there is nothing in the record indicating that there was another female on the street with whom defendant could have been confused. We draw all reasonable inferences in favor of the State. *Davison*, 233 Ill. 2d at 43. The officers’ testimony does not indicate that there was heavy foot traffic. In fact, Shearer testified that did not see any

other black females wearing the same clothing as defendant. We therefore find that defendant's arguments meritless after considering the record.

¶ 24 Defendant finally argues that there was insufficient evidence to prove her guilty of delivery of heroin beyond a reasonable doubt because Lepine's testimony "does not make sense" where he testified that he paid for three bags of heroin, only received two, and "[h]e does not ask for the third and just walks away." Defendant acknowledges Lepine explained that being shorted during in a narcotics transaction is common in his experience, but argues that his assertion is unsupported. The State argues that Lepine's testimony was based on "his experience as an undercover officer" and the credibility of his testimony was an issue for the jury. We agree with the State. It is the province of the trier of fact "to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence." *Siguenza-Brito*, 235 Ill. at 228. A rational juror could have found Lepine's testimony credible and we will not substitute our judgment for that of the trier of fact in this case. *Id.* at 224-25.

¶ 25 After viewing all of the evidence in the light most favorable to the State, we conclude that a rational trier of fact could have found defendant's guilt beyond a reasonable doubt.

¶ 26 Affirmed.