2019 IL App (1st) 170131-U

No. 1-17-0131

Order filed February 8, 2019

SIXTH DIVISION

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. 15 CR 17342
	)	
TAVARIS MONROE,	)	Honorable
	)	Michael B. McHale,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Delort and Justice Connors concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm defendant's conviction for possession of a controlled substance because the evidence, when viewed in the light most favorable to the State, showed that an officer saw defendant throw a bag of heroin onto a windowsill during the execution of a search warrant.

¶ 2 Following a bench trial, defendant Tavaris Monroe was convicted of possession of a controlled substance and sentenced to three years' imprisonment. On appeal, defendant argues

that the evidence was insufficient to prove him guilty beyond a reasonable doubt where the State's sole witness testified that, contrary to human experience, defendant threw a bag of heroin onto a windowsill after a group of officers entered an apartment. We affirm.

¶ 3 Defendant was charged by indictment with one count of possession of a controlled substance, namely, less than 15 grams of a substance containing heroin (720 ILCS 570/402(c) (West 2014)).

¶ 4 At trial, Chicago Police Officer Ron Norway testified that, at 4:32 p.m. on September 24, 2015, he executed a search warrant at an apartment building at 3104 West Polk Street in Chicago, Illinois, with eight other officers. They approached the building, knocked on the metal front door, and announced that they were the police with a search warrant. After receiving no response, the officers were given permission by their sergeant to force the door open with a battering ram. Five to six officers entered the building and rushed up a flight of stairs. On the second floor, the officers knocked on the apartment door and again announced that they were the police with a search warrant. After waiting for a period of time, the sergeant gave the officers permission to break down the door with a battering ram.

¶ 5 Once inside the apartment, Norway saw defendant, whom he identified in court, and two other individuals standing in the kitchen near a back door. Defendant threw an object toward the kitchen window with his right hand, while Norway was within 20 to 25 feet of defendant with an unobstructed view. Without losing sight of the object, Norway retrieved it from the windowsill and noticed that it was a knotted plastic bag containing 13 zip-lock packets of white powder. The officers arrested defendant and inventoried the plastic bag, along with his identification cards,

driver's license, and a "bundle" of $300 located inside the bottom drawer of a bedroom dresser. The officers also found $185 in defendant's wallet, and $269 on his person.

¶ 6 On cross-examination, Norway acknowledged that he did not hear any noises or loud music within the apartment that would have prevented anyone from hearing the officers knock, announce themselves, or break down the doors. On redirect examination, Norway clarified that he saw defendant near a door that led onto the back porch of the apartment.

¶ 7 The State introduced a stipulation between the parties that the knotted bag had been properly inventoried, and that 3.3 grams of powder from eight of the zip-lock bags tested positive for heroin.

¶ 8 During closing arguments, the defense argued that the State failed to satisfy its burden because it relied on a sole, uncorroborated witness, Norway, and it was illogical that defendant would wait to dispose of the bag until the officers entered into the apartment. In response, the State argued that Norway was credible, detailed, and candid in his testimony.

¶ 9 The trial court found defendant guilty of possession of a controlled substance. In so holding, the trial court stated that Norway's testimony was "clear, detailed, and credible," and neither contradicted nor impeached. The trial court further stated that human behavior is not predictable and there are a number of plausible explanations for defendant's conduct, including the possibility that defendant was in shock, inhibited by a controlled substance, panicked, or forgot that the drugs were on his person until the officers arrived. The trial court denied defendant's motion for a new trial and sentenced him to three years' imprisonment.

¶ 10 On appeal, defendant alleges that the evidence was insufficient to prove him guilty beyond a reasonable doubt because it was improbable and contrary to universal human

experience. Defendant maintains that Norway's testimony was unbelievable because defendant would have disposed of the bag of drugs immediately upon hearing the noise made by the officers as they executed the search warrant, and no evidence suggested that noise in the apartment would have prevented him from hearing the officers. The State contends that the evidence established that defendant possessed the heroin and tried to dispose of it as the officers arrived.

¶ 11 The standard of review on a challenge to the sufficiency of the evidence is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007). When a defendant challenges the sufficiency of the evidence presented at trial, it is not the function of a reviewing court to retry the defendant. *Id.* "The trier of fact is best equipped to judge the credibility of witnesses, and due consideration must be given to the fact that it was the trial court and jury that saw and heard the witnesses." *Id.* at 114-15. Hence, a defendant's conviction will not be set aside unless "the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt." *People v. Collins*, 214 Ill. 2d 206, 217 (2005).

¶ 12 In this case, the State was required to prove that defendant knowingly possessed less than 15 grams of heroin (720 ILCS 570/402(c) (West 2014)). Defendant does not contest the "knowing" element of the offense, the fact that the substance in the bag tested positive for heroin, or Norway's ability to accurately identify him during the execution of the search warrant. Rather, defendant challenges his conviction based on the proposition that his actions on the day

of the incident, as described by Norway, defy logic. We find that defendant's argument is without merit.

¶ 13 Upon review of the record in the light most favorable to the State, we find that a rational trier of fact could accept Officer Norway's testimony that he saw defendant throw a knotted bag, which contained a substance that tested positive for heroin, onto a window sill. The trial court found that Norway was "clear, detailed, and credible." Although defendant points out that the State failed to produce corroborating testimony, statements, or fingerprints, testimony from one witness, if positive and credible, is enough to support a conviction. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). Moreover, while Norway acknowledged that the officers made noise as they entered the apartment building, the trial court stated that there were reasonable inferences which could explain why defendant had waited to dispose of the bag until they arrived in the apartment building, including that he could have panicked, been in shock, forgotten he had the drugs, or been inhibited by a controlled substance. "[I]n a bench trial, it is for the trial judge, sitting as 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.* Here, the trial court determined that Norway was an articulate and credible witness, and his testimony was sufficient to sustain defendant's conviction.

¶ 14 Defendant further argues that the testimony provided by Officer Norway was akin to a "dropsy case." See *People v. Ash*, 346 Ill. App. 3d 809, 816 (2004) ("A 'dropsy case' is one in which a police officer, to avoid the exclusion of evidence on fourth-amendment grounds, falsely testifies that the defendant dropped the narcotics in plain view (as opposed to the officer's discovering the narcotics in an illegal search)."). Despite defendant's attack on the believability

of Norway's testimony, we will not reweigh the trial court's determination that Norway's testimony was credible and unimpeached, and this court will not substitute our judgment for that of the trier of fact on those issues. *Collins*, 214 Ill. 2d at 217.

¶ 15 Based on the foregoing, the evidence presented at trial, when viewed in the light most favorable to the State, was sufficient for any rational trier of fact to find defendant guilty beyond a reasonable doubt of possession of a controlled substance. Therefore, defendant's conviction is affirmed.

¶ 16 Affirmed.