

2019 IL App (1st) 170327-U

No. 1-17-0327

September 23, 2019

First Division

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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 11203
)	
STEVEN LAMAR,)	Honorable
)	Charles P. Burns,
Defendant-Appellant.)	Judge, presiding.

JUSTICE WALKER delivered the judgment of the court.
Presiding Justice Griffin and Justice Mikva concurred in the judgment.

ORDER

- ¶ 1 *Held:* The evidence presented at trial was sufficient to prove defendant guilty beyond a reasonable doubt of possession of 30 to 500 grams of cannabis with intent to deliver.
- ¶ 2 The trial court found Steven Lamar guilty of possessing more than 30 grams of marijuana with intent to deliver. Lamar challenges the sufficiency of the evidence. We find that minor

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inconsistencies in the testimony do not provide grounds for overturning the trial court's assessment of the witnesses' credibility. Accordingly, we affirm the trial court's judgment.

¶ 3

I. BACKGROUND

¶ 4 Around 1 a.m. on June 10, 2015, Officers Peter Bucks and Peter Chambers of the Chicago Police Department, responding to a radioed message from Officer Matthew Bouch, arrested Jonell Patterson on the sidewalk by West Polk Street, and Lamar, who was in a van parked near Patterson. Prosecutors charged Patterson and Lamar with possession of more than 30 grams of marijuana with intent to deliver. See 720 ILCS 550/5(d) (West 2014).

¶ 5 At the bench trial Bouch testified that around 1 a.m. on June 10, 2015, he saw Patterson and Lamar on Polk Street, shouting "weed, weed" to passing pedestrians and drivers. A car stopped and Patterson approached as Bouch watched from a car parked about 30 feet away. The driver handed Patterson some cash. Patterson went to a stairwell of a house on Polk, reached into a large plastic bag, retrieved a small item, and returned to the car. He handed the item to the driver who then drove off. A second person came up to Patterson and a similar transaction occurred.

¶ 6 Bouch testified that Lamar, wearing a white button-up shirt, went to the next car that stopped. Lamar took cash from the driver, went to the stairwell and retrieved an item from the plastic bag, and gave the item to the driver. Another transaction between Lamar and another driver followed shortly. Bouch then radioed Bucks and Chambers. Bouch saw Lamar go to a van parked on the street. Following Bouch's directions, Chambers went to the van and arrested Lamar.

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¶ 7 On cross-examination, Bouch said street lights allowed him to see Patterson and Lamar clearly. He saw Lamar get into a van on the north side of Polk.

¶ 8 Bucks testified that when he approached, Patterson dropped a bag containing nine smaller bags. The parties stipulated that laboratory tests confirmed that the dropped bag held marijuana.

¶ 9 Chambers testified that after he arrested Lamar, Bouch directed him to a specific stairwell, where Chambers found a large plastic bag containing many smaller bags. The parties stipulated that laboratory tests confirmed that the smaller bags in the large plastic bag held marijuana, and the total weight of the marijuana exceeded 30 grams.

¶ 10 On cross-examination, Chambers said Lamar, wearing a white buttoned shirt, sat in a van on the south side of Polk. Chambers admitted that in the arrest photograph, Lamar wore a white tee shirt, and Chambers did not see him remove the buttoned shirt.

¶ 11 A witness for the defense testified that she played cards with Patterson and two others in a vacant lot on Polk Street. Police pulled up and arrested Patterson and Lamar, who had not been selling drugs.

¶ 12 The trial court found the officers credible and it found Lamar guilty of possessing more than 30 grams of marijuana with intent to deliver. The court sentenced Lamar to 45 months in prison and to payment of assorted fees and fines. Lamar now appeals.

¶ 13 **II. ANALYSIS**

¶ 14 Lamar argues on appeal that the evidence does not prove beyond a reasonable doubt that he possessed the marijuana found in the bag in the stairwell. "When presented with a challenge to the sufficiency of the evidence, this court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the

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essential elements of the crime beyond a reasonable doubt." *People v. Harden*, 2011 IL App (1st) 092309, ¶ 27.

¶ 15 Lamar contends that Bouch's testimony does not adequately prove that the person Bouch saw in the white shirt was Lamar. Bouch saw the transactions at night, from 30 feet away. The man shouting "weed" wore a buttoned shirt, but Lamar, in his arrest photograph, wore a tee shirt. The man who shouted "weed" got into a van on the north side of Polk, but Chambers testified that he found Lamar in a van on the south side of Polk. "[E]ven contradictory testimony does not necessarily destroy the credibility of a witness, and it is the task of the trier of fact to determine when, if at all, she testified truthfully. *** Minor discrepancies in testimony affect only its weight and will not render it unworthy of belief." *People v. Gray*, 2017 IL 120958, ¶ 47.

¶ 16 Lamar also challenges the finding of constructive possession of the marijuana. The court heard no evidence as to when or how the large plastic bag arrived in the stairwell, and no evidence that Patterson and the other man with him took any measures to prevent others from accessing the plastic bag.

¶ 17 "To establish guilt of the offense of possession of a controlled substance with intent to deliver, the State must show the defendant (1) had knowledge of the presence of narcotics; (2) had possession or control of the narcotics; and (3) intended to deliver the narcotics." *Harden*, 2011 IL App (1st) 092309, ¶ 27. "Knowledge may be shown by evidence of conduct from which it may be inferred that the defendant knew the contraband existed in the place where it was found." *People v. Smith*, 288 Ill. App. 3d 820, 824 (1997).

¶ 18 Bouch's testimony about the two transactions between Lamar and two drivers supports the finding that Lamar knew the large plastic bag held marijuana. As in *People v. Jones*, 295 Ill.

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App. 3d 444, 454 (1998), "[d]efendant's conduct and the actions of his accomplices support[ed] the conclusion that defendant knew where the drugs were located, always intended to maintain control of the drugs, and never abandoned the drugs." The transactions support the inference that Lamar delivered marijuana to two customers, and intended to deliver the marijuana in the bag to more customers. See *People v. Burks*, 343 Ill. App. 3d 765, 770 (2003); *People v. Williams*, 331 Ill. App. 3d 662, 668 (2002). The evidence presented at trial, viewed in the light most favorable to the prosecution, was sufficient to sustain defendant's conviction for possession of 30 to 500 grams of cannabis with intent to deliver.

¶ 19

III. CONCLUSION

¶ 20 The evidence sufficiently supports the conviction. Accordingly, we affirm the trial court's judgment.

¶ 21 Affirmed.