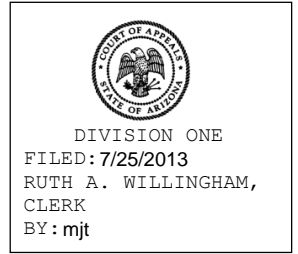


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



STATE OF ARIZONA,) 1 CA-CR 12-0334
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication - Rule
YVONNE WALKER,) 111, Rules of the Arizona
) Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-006463-015

The Honorable Daniel G. Martin, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
By Joseph T. Maziarz, Chief Counsel Criminal Appeals
and Aaron J. Moskowitz, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Joel M. Glynn, Deputy Public Defender
Attorneys for Appellant

N O R R I S, Judge

¶1 Yvonne Walker appeals her convictions and sentences
for money laundering in the second degree and conspiracy to

commit sale or transportation of marijuana.¹ Walker argues the superior court should have granted her motion for acquittal under Rule 20 of the Arizona Rules of Criminal Procedure on the money laundering charge because the State did not present substantial evidence of her guilt. Walker further argues the evidence did not support the jury's verdict finding her guilty on the conspiracy charge.

¶2 Although Walker makes these arguments separately, our analysis of the evidence under each argument is the same. Ariz. R. Crim. P. 20(a); *State v. West*, 226 Ariz. 559, 562, ¶¶ 15-16, 250 P.3d 1188, 1191 (inquiry is whether State presented "substantial evidence," that is, "such proof that 'reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt'") (citation omitted); *State v. Fulminante*, 193 Ariz. 485, 493, ¶ 24, 975 P.2d 75, 83 (1999); *State v. Sharma*, 216 Ariz. 292, 294, ¶ 7, 165 P.3d 693, 695 (App. 2007). Therefore, we address these two arguments together, and will not reverse the superior court's denial of a Rule 20 motion or a jury verdict unless there are no probative facts supporting the defendant's

¹The jury also convicted Walker of the sale or transportation of marijuana and her notice of appeal broadly stated she was appealing "the trial and sentencing." On appeal, however, Walker presents no arguments regarding this conviction. We therefore affirm her conviction and sentence for sale or transportation of marijuana.

conviction. *State v. Johnson*, 215 Ariz. 28, 29, ¶ 2, 156 P.3d 445, 446 (App. 2007); *State v. Miles*, 211 Ariz. 475, 481, ¶ 23, 123 P.3d 669, 675 (App. 2005).

¶3 Here, the record reflects the State presented substantial evidence supporting Walker's convictions for both money laundering in the second degree and conspiracy to commit sale or transportation of marijuana. Therefore, we disagree with both of Walker's arguments and affirm her convictions and sentences.

FACTS AND PROCEDURAL BACKGROUND²

¶4 Because Walker challenges the sufficiency of the evidence, we set forth the facts in some detail. On February 16, 2009, as part of a long-term and large-scale investigation, police were surveilling a suspected drug stash-house when they saw Walker leave the house in a Honda Passport at about 3:35 P.M. Police followed Walker as she drove the Honda to a mailbox store, where she bought several cardboard boxes, and then drove to a 99-cent store to buy toilet paper and floral-patterned paper towels.

¶5 Walker returned to the house, drove the Honda into the garage, and a few minutes later, drove the Honda out of the

²We view the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Walker. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

garage and parked it on the street in front of the house. Walker got out of the Honda while a woman named Luz Valenzuela came out of the house, and they both approached the driver, a woman, of a Toyota who had arrived shortly before. Walker hugged the Toyota's driver and the three women spoke for a few minutes. Afterwards, Walker and Valenzuela re-entered the house while the Toyota's driver, along with other occupants in the Toyota, entered the Honda and drove away.

¶16 At about 4:26 P.M., a Dodge Caravan arrived at the house and parked in the garage. The Dodge left the house at about 5:20 P.M., a time drug transporters often take their packages to parcel shipping companies so "[their] product will not sit at the store[s]."

¶17 When police attempted to stop the Dodge for traffic violations, the driver tried to evade the police, drove the Dodge through a subdivision's park-like "greenbelt," stopped the Dodge, and ran away. Police ordered Walker out of the front passenger seat and detained her. Police found four cardboard boxes inside the Dodge that contained 117 pounds of marijuana. The marijuana was divided into bales and was wrapped in floral-patterned paper towels.

¶18 Police removed Walker's purse from the Dodge and asked her if everything in the purse belonged to her. Walker said no, and stated the driver had "placed something" inside her purse.

Police opened the purse and found a yellow bag with \$9,320 in twenty-dollar bills.

¶19 Police read Walker her *Miranda* rights and Walker, who was crying and very emotional, agreed to speak with police. Walker told police she had asked the driver why they were speeding and indicated she thought they would just receive a ticket. Walker then said, "everybody left me, they all ran, they left me, they left me on shit's -- they left me on shit's street. They all ran off on me."

¶10 After police told Walker they saw her buy the boxes, Walker explained, "Do you know why I got the boxes? Do you know why[?] They tell me to get the boxes, [] so you can't just blame me for this." Walker also said, "[O]h, my God, everybody's going to know if I say anything, everybody's going to know," followed by, "I ain't taking this. I don't care. I'm not saving nobody because nobody is saving me." Later, Walker told police "I'm not going to put myself on the line against these people, you know. I don't have anybody to protect me."

¶11 Police asked Walker about the marijuana and she responded, "[I]t's not mine," and she "didn't rent the van." When police told Walker they had watched her drive by herself to buy the cardboard boxes, Walker said, "Ah, that's where it's a problem." And, when police asked Walker if there was any

additional marijuana at the house, she said, "[N]o, just what's in there," and pointed to the Dodge.

¶12 Meanwhile, police stopped Valenzuela, who had left the house in the Toyota at about the same time Walker left the house in the Dodge. Inside the Toyota, police found 85.4 pounds of marijuana.

¶13 Police searched the house and discovered it was sparsely furnished and did not appear to be lived in. The kitchen had "a lot of loose marijuana, what you call shake, on the floor," indicating it was a location where people repackage marijuana into smaller bundles for sale, or to hide its odor. Police also found a medium-duty scale in a kitchen cupboard and paper towels that matched "the same pattern that appeared to be from the bale that was found in one of the vehicles that left [the house]." In the garage, police found a trash can containing "a fairly large amount of [] plastic wrap and packaging tape" with marijuana shake, and "a little work table" with spray adhesive, packing tape, and contractors' knives -- all of which are common in the packaging of marijuana for shipment.

DISCUSSION

I. Money Laundering

¶14 As noted, Walker argues on appeal the superior court should have granted her Rule 20 motion for a directed verdict of

acquittal on the charge of money laundering in the second degree. The question is, thus, whether the State presented substantial evidence showing Walker had an interest in, transported, or received racketeering proceeds knowing or having reason to know that they were the proceeds of an offense. Ariz. Rev. Stat. ("A.R.S.") § 13-2317(B)(1) (2010). The answer is "yes."

¶15 In this case, Walker does not dispute the money found in her purse constituted racketeering proceeds as defined by A.R.S. § 13-2301(D)(4)(b)(xi) (2010). Instead, Walker argues the State failed to show the money was hers or that she ever possessed it. Walker contends she never possessed or received the money because, as she told the police, the driver put it in her purse shortly before abandoning her and the Dodge. Walker further argues that even if she did possess the money, she did not know it stemmed from racketeering. We disagree with these arguments.

¶16 First, on the evidence presented at trial, a reasonable jury could have found Walker "received" the proceeds because the money was in her purse, even if only recently placed there. Second, a reasonable jury could have rejected Walker's story that the driver put the money in her purse at the last moment. And third, a reasonable jury could have inferred Walker must have known about the nature of the proceeds because the

State provided extensive circumstantial evidence that Walker was aware of the marijuana operation. See *West*, 226 Ariz. at 562, ¶ 16, 250 P.3d at 1191 (2011) (“Both direct and circumstantial evidence should be considered in determining whether substantial evidence supports a conviction.”)

¶17 Walker’s statements during arrest indicate she not only knew of the marijuana at the house and the involvement of others in packaging and transporting marijuana, but also she was involved in the operation. Walker went by herself to purchase cardboard boxes and paper towels that were used to package large amounts of marijuana. Walker stayed for hours in the minimally furnished stash-house, which had marijuana shake on the floor and marijuana packaging materials in the garage where she parked the Honda. Then police found Walker, with \$9,320 in her purse, in a car with over 100 pounds of marijuana -- which was packed in the cardboard boxes and floral-patterned paper towels she bought earlier that day.

II. Conspiracy to Sell or Transport Marijuana

¶18 Walker also argues the State failed to present substantial evidence that she, “with the intent to promote or aid the commission of an offense, . . . agree[d] with one or more persons that at least one of them or another person [would] engage in conduct constituting the offense and one of the parties [committed] an overt act in furtherance of the offense.”

A.R.S. § 13-1003 (2010). According to Walker, the State only demonstrated she was "merely present" at the house and in the Dodge, and thus failed to show she was a participant in the conspiracy. We disagree.

¶19 The primary focus of the crime of conspiracy is the agreement itself, the collusion, the secrecy and the resulting threat to society created by such criminal liaisons. State v. Verive, 128 Ariz. 570, 581, 627 P.2d 721, 732 (App. 1981). Mere knowledge, approval, or acquiescence of the object and purpose of a conspiracy, without an agreement to cooperate in achieving it, is not enough to make one a party to the conspiracy. State v. Salazar, 27 Ariz. App. 620, 625, 557 P.2d 552, 557 (1976). A person who knowingly does any act to further the object of a conspiracy, or otherwise participates therein, however, is criminally liable as a conspirator. State v. Arredondo, 155 Ariz. 314, 317, 746 P.2d 484, 487 (1987).

¶20 Applying the foregoing principles to this case, the jury could reasonably have rejected Walker's argument that she was "merely present," and found she knowingly participated in a conspiracy to sell or transport marijuana. After all, "[o]nce the existence of a conspiracy is established, evidence establishing beyond a reasonable doubt a connection of a defendant with the conspiracy, even though the connection is slight, is sufficient to convict him with knowing participation

