



FILED

Oct 13 2010, 8:49 am

Kevin L. Smith

CLERK

of the supreme court,
court of appeals and
tax court

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana

BAKER, Chief Judge

Appellant-defendant Clarence T. Hunt appeals his convictions for two counts of Dealing in a Narcotic Drug,¹ a class A felony. Specifically, Hunt argues that the convictions must be set aside because the evidence failed to demonstrate that he was the individual who delivered drugs to the confidential informant. Finding the evidence sufficient, we affirm.

FACTS

In September 2008, William Garrett made undercover narcotics purchases as a confidential informant for the Shelby County Drug Task Force (Drug Task Force). On September 8, 2008, Hunt, who was acquainted with Garrett from high school, told Garrett that he could obtain oxycodone pills for him. In response, Garrett stated that he would get the money from a friend and buy the pills. Garrett then contacted Detective Darren Chandler of the Drug Task Force and related what Hunt said about obtaining oxycodone.

Later that day, Garrett met with Detective Chandler and several other police officers behind a former Shelbyville Wal-Mart store. At some point, the police officers searched Garrett and his vehicle for money and contraband. After concluding that none of these items were in Garrett's possession, the detectives equipped Garrett with a recorder and transmitter and handed him \$450 in marked "buy money" for the drug purchase. Tr. p. 24-25, 165-66. Garrett telephoned Hunt, who was at Garrett's apartment, and told Hunt that he was on his way pick him up and make the buy. Several police officers followed Garrett to the apartment.

¹ Ind. Code § 35-48-4-1.

When Garrett arrived at the residence, Hunt entered Garrett's vehicle. Garrett then drove to Jeff Sosbe's Shelby County home and the same police officers followed. During the drive, Garrett and Hunt discussed the number of pills to be purchased and the cost to Garrett. Garrett pulled into Sosbe's driveway and the police officers who had followed Garrett parked down the street in a nearby church driveway.

Garrett handed Hunt the \$450 buy money and Hunt exited the vehicle. Hunt then entered Sosbe's residence while Garrett remained in the vehicle. Approximately fifteen minutes later, Hunt emerged from Sosbe's house and returned to Garrett's vehicle. Hunt counted out twenty-three pills, gave them and a \$50 bill to Garrett, and commented that they "made fifty dollars apiece." Id. at 229.

Hunt stayed at Sosbe's and Garrett drove to a pre-arranged meeting place at a nearby Volunteer Fire Station. The police officers followed and Garrett subsequently handed one of the officers an amber pill bottle that contained twenty-three yellow pills marked with "OC" on one side, "40" on the other side, and a folded \$50 bill. Id. at 39, 96-97, 169, 171-74, 230.

The police officers removed the body wire and another search of Garrett and his vehicle revealed no contraband. The \$50 bill that Garrett received from Hunt was part of the marked buy money. Id. at 173-75. Following a chemical analysis, it was determined that the pills weighed 3.07 grams and contained oxycodone, a Schedule II narcotic.

On September 9, 2008, Garrett telephoned Detective Chandler and informed him that Hunt could obtain additional pills. Thus, a second undercover buy was arranged. As with the previous transaction, the police officers searched Garrett and found no

contraband or cash in his possession. The officers then gave Garrett an additional \$450 in marked buy money. Id. at 46, 190-92, 244. This transaction and the process that the police performed after the sale occurred in the same manner as the previous purchase. Laboratory tests revealed that the twelve green pills that Garrett obtained from Hunt on September 9 contained oxycodone and weighed 3.23 grams.

On April 21, 2009, Hunt was charged with two counts of dealing in a narcotic drug, a class A felony. At the conclusion of a jury trial on November 4, 2009, the jury found Hunt guilty as charged. Thereafter, the trial court sentenced Hunt to thirty years of incarceration on each count and ordered the sentences served concurrently. Hunt now appeals.

DISCUSSION AND DECISION

Hunt maintains that the evidence is insufficient to support his convictions because the State failed to prove that he was the individual who delivered the oxycodone to Garrett. Hunt contends that some “other individual could have supplied the narcotics to [Garrett] because “[the] police officers never saw the drug transactions occur.” Appellant’s Br. p. 3-4.

In addressing Hunt’s challenge to the sufficiency of the evidence, we neither reweigh the evidence nor assess witness credibility, and will focus on the evidence most favorable to the verdict together with the reasonable inferences that may be drawn therefrom. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We will affirm unless no reasonable factfinder could find the elements of the crime proved beyond a reasonable doubt. Id. Finally, we note that a conviction in a drug case may be sustained upon the

testimony of an informant alone. Haynes v. State, 431 N.E.2d 83, 85 (Ind. 1982). To support Hunt’s convictions for the charged offenses, the State was required to prove beyond a reasonable doubt that Hunt knowingly or intentionally delivered at least three grams of oxycodone, a Schedule II narcotic drug. I.C. § 35-48-4-1.

In this case, the evidence showed that prior to the purchases, the police officers searched Garrett and his vehicle and found no contraband or money. Tr. p. 22-25, 45, 86, 99, 223, 244. Garrett was under constant police surveillance and Hunt was the only person Garrett came in contact with while driving to Sosbe’s residence. Id. at 33-34, 47-49, 91-92, 102, 168, 193, 226, 244-46. Garrett testified at trial that he handed Hunt the “buy money.” Id. at 226-27, 247. Hunt purchased the oxycodone from Sosbe in each instance and delivered the drugs to Garrett. Id. at 228-29, 247. Thereafter, Garrett—while under constant police surveillance—drove directly to the rendezvous point and gave the narcotics to the police officers.

In light of this evidence, we conclude that the State proved beyond a reasonable doubt that Hunt delivered the oxycodone to Garrett on both occasions. Thus, we decline to set aside Hunt’s convictions.

The judgment of the trial court is affirmed.

NAJAM, J., and MATHIAS, J., concur.