

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KERRY R. MOORE,

Defendant-Appellant.

---

UNPUBLISHED

May 19, 2000

No. 212031

LC Nos. 93-124424-FH

93-124425-FH

Before: Murphy, P.J., and Collins and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial convictions for two counts of delivery of more than 50 but less than 225 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii), second offense, MCL 333.7413(2); MSA 14.15(7413)(2). Defendant was sentenced to consecutive terms of seven to forty years' imprisonment. We affirm.

Defendant's only issue on appeal is that the evidence offered at trial was insufficient to support his convictions. We disagree.

In reviewing a claim that there was insufficient evidence to support a conviction, we view the evidence presented in a light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements of the crime proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Mass*, 238 Mich App 333, 335; 605 NW2d 322 (1999).

The offense of delivery of a controlled substance requires proof that: (1) the defendant delivered a controlled substance; (2) the substance delivered was cocaine; (3) the defendant knew he was delivering cocaine; (4) the cocaine weighed more than 50 but less than 225 grams; and (5) the defendant was not legally authorized to deliver cocaine. See CJI2d 12.2; see also *People v Catanzarite*, 211 Mich App 573, 577; 536 NW2d 570 (1995). Viewing the evidence in a light most favorable to the prosecution, we find that the prosecution presented sufficient evidence to support each element. On June 29, 1992, defendant delivered 55.90 grams of cocaine to an undercover officer in exchange for \$3,000. On July 7, 1992, defendant delivered two bags containing a combined weight of

54.45 grams of cocaine to the same undercover officer in exchange for \$3,000. There was no dispute that defendant was not authorized to conduct these deliveries.

Defendant asserts that the trial judge failed to find, as a matter of fact, that the weight of the cocaine delivered was more than 50 grams but less than 225 grams. This argument lacks merit. At trial, defendant, through defense counsel, stipulated to the admission of two laboratory reports that indicated that on both occasions the substance delivered was cocaine. The undisputed laboratory reports further indicated the weight of the delivered cocaine as described above, on both occasions, was more than 50 grams but less than 225 grams. Although when making its findings of fact the trial court appears to have misquoted and misread the contents of the two reports, the record is clear that this element of the offense was satisfied. Accordingly, a rational trier of fact could find beyond a reasonable doubt, based on these facts, that defendant delivered more than 50 but less than 225 grams of cocaine. *Wolfe, supra* at 516.

Affirmed.

/s/ William B. Murphy

/s/ Jeffrey G. Collins

/s/ Donald S. Owens