STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1399

State of Minnesota,
Respondent,

vs.

Agane Mohamed Warsame,
Appellant.

Filed September 16, 2008
Affirmed
Connolly, Judge

Olmsted County District Court
File No. CR-06-7759

Lori Swanson, Attorney General, 445 Minnesota Street, Bremer Tower, Suite 1800, St. Paul, MN 55101; and

Mark A. Ostrem, Olmsted County Attorney, James P. Spencer, Assistant County Attorney, 151 SE Fourth Street, Rochester, MN 55904 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Minge, Presiding Judge; Lansing, Judge; and Connolly, Judge.

U N P U B L I S H E D O P I N I O N

CONNOLLY, Judge

Appellant argues that the evidence is insufficient to support his conviction for selling crack-cocaine in violation of Minn. Stat. § 152.021, subds. 1(1), 3(b) (2004). Because, when viewed in the light most favorable to the conviction, there is sufficient evidence to allow the jurors to reach the verdict that they did, we affirm.

FACTS

On June 7, 2006, Rochester police used a confidential informant (C.I.) to make a controlled buy from appellant. To initiate the buy, an officer took the C.I. to a pay phone. The C.I. then placed a call to appellant and made plans to meet appellant at a McDonald's restaurant so that the C.I. could purchase $100 of crack-cocaine from him. The officer and the C.I. next drove to a location near the McDonald's where the planned meeting was to occur. The officer searched the C.I. for drugs and money; neither was found. The officer then provided the C.I. with $100 in buy money and an electronic transmitter.

After receiving the buy money, the C.I. made contact with appellant in the McDonald's parking lot. They then proceeded through an alley to a house where police had made controlled buys of illegal drugs in the past. While in the alley, the officers observing the controlled buy testified that they lost sight of appellant and the C.I. for "ten seconds." This was the only time that visual contact with the C.I. was broken during the transaction. When the C.I. and appellant arrived at the house, the C.I. testified that

appellant asked him to enter the house, and, after he refused to do so, asked him to lift up his shirt to check for a transmitter.[1]

The C.I. then testified that another individual in the house went upstairs, came back, and handed appellant some crack-cocaine. Appellant then threw the crack-cocaine on the floor of the porch where the C.I. was standing, the C.I. picked it up, and the transaction was completed when the C.I. handed appellant the $100 in buy money.

After the buy, the C.I. handed the substance he purchased to the officer. The officer then searched the C.I. and found no other illegal drugs or money. A forensic scientist at the bureau of criminal apprehension laboratory later determined the substance contained 0.4 grams of cocaine.

Following a jury trial, appellant was convicted and sentenced to prison for 27 months. Appellant challenges the sufficiency of the evidence supporting his conviction.

D E C I S I O N

In considering a claim of insufficient evidence, our review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). We must assume the jury believed the state's witnesses and disbelieved any evidence to the contrary. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof

[1] The transmitter was not detected by appellant.

beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

Appellant argues that there is insufficient evidence because the C.I.'s testimony was uncorroborated. This argument is unavailing. The law of Minnesota does not require corroboration of a C.I.'s testimony, and appellant has provided no basis for such an exception. We are constrained in the circumstances in which we are obligated to extend an application of the law. *See Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987) ("[T]he task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court."), *review denied* (Minn. Dec. 18, 1987).

Turning to the facts of this case, when viewed in the light most favorable to the conviction, there is sufficient evidence to allow the jurors to reach the verdict that they did. First, there is the uncontroverted testimony of the C.I.[2] While appellant may take issue with the credibility of the C.I.'s testimony, we must assume the jury believed the state's witnesses and disbelieved any evidence to the contrary. *Moore*, 438 N.W.2d at 108. Second, the officers through their surveillance were able to corroborate and independently verify almost every aspect of the C.I.'s testimony. In particular, the officers were able to verify that the only person the C.I. ever had physical contact with was appellant. This eliminates any reasonable probability that the C.I. could have received the crack-cocaine from anyone other than appellant.

Affirmed.

[2] Appellant did not testify at trial and introduced no evidence on his behalf.