

DIVISION II

CACR06-1389

November 28, 2007

LEEOTIS SIMS

APPELLANT  
237]

AN APPEAL FROM THE CLARK  
COUNTY CIRCUIT COURT [CR05-

v.

HONORABLE JOHN A. THOMAS,  
JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

Leeotis Sims was convicted by a Clark County jury of two counts of delivering cocaine. He was sentenced to twenty years' imprisonment for each count, and his sentences were each enhanced by ten years' imprisonment, resulting in an aggregate sentence of sixty years. He asserts on appeal that the trial court erred by admitting into evidence a transcript of the original tape recording of the delivery when the original tape was available. He also asserts that the court erred when it failed to admonish the jury regarding the use of the transcript. We find no error and affirm.

The evidence at trial showed that Angela Bell was engaged by Gurdon City Marshall Don Childres to make controlled drug buys from Sims. The buys took place on two separate occasions, July 14, 2005 and August 10, 2005. Prior to each buy, Childres met with Bell, searched her and her belongings, gave her twenty dollars for the buy, and placed a tape

recorder into her purse. Childres drove Bell to a designated location, dropped her off, and then watched her hand Sims the money. Childres watched as Sims handed drugs to Bell. Bell returned to the car and Childres took possession of the drugs and tape recorder.

Childres testified that the tape recordings were “not the best sounding tape[s], but you can make out what it says.” He further stated that the transcript corresponded to what was on the tape.

Bell testified that she purchased \$20 worth of crack from Sims on July 14, 2005, and on August 10, 2005. She said that she had a tape recorder in her purse at the time she bought the crack from Sims. She listened to the recording of the drug buys and read the transcript of the recordings. She further testified that the transcript accurately reflected the tape recordings and that it accurately reflected what was said between her and Sims at the scene of the taping. The court admitted the transcript into evidence over Sims’ objection, finding that the transcript would assist the jury in understanding the contents of the tape.

Once the State rested, Sims testified. He stated that it was not his voice on the tape and that he was not guilty. The jury found him guilty and sentenced him to sixty years in prison. This appeal followed.

On appeal, Sims first argues that the trial court erred by allowing a transcript of the audiotape into evidence. We disagree. The admission or rejection of evidence is left to the sound discretion of the trial court and will not be reversed absent an abuse of discretion. *Davis v. State*, 362 Ark. 34, 207 S.W.3d 474 (2005). Transcripts of tape recordings that are essentially accurate are admissible. *Bunn v. State*, 320 Ark. 516, 898 S.W.2d 450 (1995).

Both Childres and Bell testified that the transcript was accurate and Sims did not object to the transcript's accuracy. His only objection was that the jury "can go from what they hear on the tape, rather than someone saying what's on the tape." The trial court did not abuse its discretion by admitting the transcript into evidence.

Sims further argues that the jury should have been admonished regarding the use of the transcript. The failure to admonish the jury is not prejudicial error when no instruction or admonition is requested. *Gray v. State*, 327 Ark. 113, 937 S.W.2d 639 (1997). Sims did not ask the court to admonish the jury; therefore, he suffered no prejudice.

Affirmed.

HART and GLOVER, JJ., agree.