

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICHARD LAWS,)
) No. 156, 2003
 Defendant Below,)
 Appellant,) Court Below: Superior Court
 v.) of the State of Delaware in
) and for New Castle County
)
 STATE OF DELAWARE,) Cr. ID. No. 0203007255
) Cr.A. Nos. IN-02-03-1287, 1287
 Plaintiff Below,) through 1291
 Appellee.)

Submitted: October 7, 2003
Decided: December 18, 2003

Before **VEASEY**, Chief Justice, **BERGER**, and **STEELE**, Justices.

ORDER

This 18th day of December 2003, upon consideration of the briefs of the parties, it appears to the Court as follows:

1. On March 5, 2002, plain-clothed police officers Kyle Kent and Donald Dempsey were investigating suspected drug activity in a Wilmington neighborhood. Around 8:00 p.m., the officers observed an unknown object being passed between two unidentified individuals with whom defendant-appellant Richard Laws was standing at the intersection of North Tatnall and Twentieth

Streets. Based upon their training and experience, the officers concluded that a drug transaction had occurred.¹

2. Laws and the two unidentified individuals walked around a corner and out of the officers' view. When the officers followed, they did not see the two individuals whom they believed were involved in the transaction but they did see Laws talking to another individual. Officer Kent got out of the vehicle, identified himself as a police officer, and asked Laws if he could speak with him. Laws immediately fled.

3. During the chase, Laws threw a gun into some bushes. The chase ended on Laws' front porch when he unsuccessfully attempted to enter his home. Officer Kent drew his gun and ordered Laws to lie on the porch. Officer Dempsey maced Laws when he failed to comply with the order. Laws' mother testified when she asked what was happening on the porch, Laws stated, "Mom, I have something to tell you. I'm sorry. I'm smoking."² Laws was arrested and taken to the hospital.

4. At the hospital, Laws told the officers that he had a bottle containing four "bags" inside his pants. The police reached under his waistband and retrieved a pill bottle containing six small bags of crack cocaine. When Officer Kent asked

¹ The officers only witnessed one delivery and never observed anything being offered in return for the delivery(i.e. drugs in exchange for money). At trial, Jamal Walston testified he was giving Keandra Midget a few dollars for lunch the following day. In any event, both parties agreed that Laws was not a party to the transaction.

² Appendix at A-20.

what he was doing with the drugs, Laws replied “that he needed some extra money.”³ Laws denied making this statement.

5. A jury convicted Laws of Possession with Intent to Deliver Cocaine, various gun offenses, and resisting arrest. On appeal, Laws claimed that: (i) the trial court erroneously denied his motion for judgment of acquittal; and (ii) the evidence cannot sustain a conviction for Possession with Intent to Deliver Cocaine. Specifically, Laws argues that no rational trier of fact could have concluded, based solely on the packaging of the drugs he possessed, that he had the requisite intent to deliver. The first inquiry involves a *de novo* review of the judge’s denial of the motion for judgment of acquittal.⁴ The second involves an assessment of the sufficiency of the evidence for a determination of guilt beyond a reasonable doubt.⁵

6. In *Cline*, this Court held that an “intent to distribute” may be established through evidence of an additional element beyond mere possession.⁶ This additional element may include: (i) an admission by the defendant that the drugs were not for personal use; (ii) expert testimony about the amount or the type of packaging generally used by sellers vs. users; or, (iii) some other credible evidence.⁷

³ Appendix at A-18.

⁴ *Cline v. State*, 720 A.2d 891, 892 (Del. 1998).

⁵ *Skinner v. State*, 575 A.2d 1108, 1121 (Del. 1990).

⁶ 720 A.2d. 891, 892.

⁷ *Id.* at 893.

7. Here, the additional element is satisfied by Laws's admission to the officers that he possessed the drugs because he needed extra money. Further, the fact that Laws possessed a gun, but no drug paraphernalia, at the time of his arrest is sufficient credible evidence of intent to "deliver" the drugs. Thus, while the packaging and quantity of the cocaine, the location of the incident, and Laws's flight might be equal indicators of either possession for personal use or intent to deliver, his admission, his possession of a gun, and his lack of drug paraphernalia sufficiently form a basis from which a reasonable person could infer an intent to deliver.

8. Accordingly, the trial judge did not err by denying Laws' Motion for Judgment of Acquittal. Further, the prosecution presented sufficient evidence from which a rational trier of fact could find Laws guilty beyond a reasonable doubt of Possession with Intent to Deliver Cocaine.

NOW, THEREFORE, IT IS ORDERED, that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Justice