

Commonwealth of Kentucky
Court of Appeals

NO. 2007-CA-000375-MR

ULRIC ROBINSON

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE SHEILA R. ISAAC, JUDGE
INDICTMENT NO. 06-CR-01016

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: ACREE, DIXON, AND TAYLOR, JUDGES.

DIXON, JUDGE: Appellant, Ulric Robinson, was convicted in the Fayette Circuit Court of first-degree trafficking in a controlled substance. He was sentenced to five years' imprisonment and appeals to this Court as a matter of right. Finding no error, we affirm.

On June 1, 2006, Detectives Joseph Eckhardt and Jennifer Lube of the Lexington Division of Police Narcotics Unit were assigned to conduct an

undercover “buy/bust” operation in the Florence Avenue area of Lexington in response to complaints of drug activity. While driving on Florence Avenue, the officers were approached by an African-American male who proceeded to sell them a “deuce” (approximately 0.2 grams) of crack cocaine for \$20. After Detectives Eckhardt and Lube departed, the suspect was taken into custody by other officers. The detectives thereafter returned to the scene and identified Appellant as the individual from whom they had purchased the drugs. A search of Appellant incident to arrest garnered the same \$20 bill the detectives had used to purchase the drugs.

On July 25, 2006, Appellant was indicted with first-degree trafficking in a controlled substance. A jury trial was held on December 19, 2006. Appellant made motions for a directed verdict at the close of the Commonwealth’s evidence and at the close of all evidence presented in the case. Both were denied and a jury thereafter found Appellant guilty and recommended a sentence of five years’ imprisonment. Sentence was entered accordingly and this appeal ensued.

Appellant argues on appeal that he was entitled to a directed verdict because the Commonwealth introduced insufficient evidence to warrant a conviction. Appellant claims that Detectives Eckhardt and Lube initially stated that the person from whom they purchased the crack cocaine had a “wad of money” and a large quantity of cocaine at the time of the buy, and also that he was wearing a key around his neck. However, when Appellant was apprehended, he

only had \$91 in his pocket, and was neither in possession of any drugs nor wearing a key around his neck.

The standard of review of a trial court's decision in granting or denying a motion for directed verdicts is well-settled:

On motion for directed verdict, the trial court must draw all fair and reasonable inferences from the evidence in favor of the Commonwealth. If the evidence is sufficient to induce a reasonable juror to believe beyond a reasonable doubt that the defendant is guilty, a directed verdict should not be given. For the purpose of ruling on the motion, the trial court must assume that the evidence for the Commonwealth is true, but reserving to the jury questions as to the credibility and weight to be given to such testimony.

On appellate review, the test of a directed verdict is, if under the evidence as a whole, it would be clearly unreasonable for a jury to find guilt, only then the defendant is entitled to a directed verdict of acquittal.

Commonwealth v. Benham, 816 S.W.2d 186, 187 (Ky. 1991); *see also*

Commonwealth v. Sawhill, 660 S.W.2d 3 (Ky. 1983). As noted in *Sawhill*, there must be evidence of substance, and the trial court is expressly authorized to direct a verdict for the defendant if the prosecution produces no more than a mere scintilla of evidence.

We are of the opinion that the Commonwealth introduced sufficient evidence to overcome a directed verdict. Certainly, there were discrepancies in several details given by the detectives. However, Appellant matched the physical description of the suspect and was positively identified in open court by both detectives. Moreover, at the time of his arrest, Appellant was in possession of the

same \$20 bill that was used by the detectives during the drug buy. Thus, the prosecution produced evidence that was “more than a mere scintilla” and the trial court correctly determined that a reasonable juror could fairly find guilt beyond a reasonable doubt. No error occurred.

The judgment and sentence of the Fayette Circuit Court are affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

John Kevin West
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BRIEF FOR APPELLEE:

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