

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LISA RANDLE,

Defendant-Appellant.

UNPUBLISHED

June 16, 1998

No. 197602

Recorder's Court

LC No. 96-001133

Before: Saad, P.J., and Wahls and Gage, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of delivery of less than fifty grams of heroin, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and possession with intent to deliver less than fifty grams of heroin, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). She was sentenced to lifetime probation for each conviction. Defendant now appeals as of right. We affirm.

Defendant first argues that her waiver of a right to a jury trial was not knowingly, voluntarily, and understandingly made. Defendant contends that the trial court erred because it did not explain to her: (1) that a jury is composed of twelve members of the community, (2) that a jury verdict must be unanimous, (3) that defendant could participate in the selection of the jury, and (4) that, upon waiver of a jury trial, the trial court would decide the question of guilt or innocence. We find no merit in this argument.

We review of a trial court's determination that a defendant validly waived her right to a jury trial for clear error. *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997). Previous panels of this Court have held that a trial court is not required to explain the unanimity requirement of a jury trial as compared to a bench trial. *Id.* at 596; *People v James (After Remand)*, 192 Mich App 568, 571; 481 NW2d 715 (1992). In addition, we find nothing in Michigan case law, statutes, or court rules requiring the trial court to advise a defendant regarding the details of a jury trial, or to provide a defendant with a comparison of jury and bench trials.

Here, the trial court informed defendant of her right to a jury trial, and she indicated that she had discussed that right with her attorney, that she understood that right, and that she voluntarily waived that

right. We also note that the lower court file contains a written “waiver of trial by jury” signed by both defendant and her trial attorney, and witnessed by a deputy clerk. Under these circumstances, we find no reversible error in the trial court’s handling of defendant’s waiver, and the trial court’s conclusion that defendant validly waived her right to a trial by jury was not clearly erroneous.

Defendant also argues that there was insufficient evidence to support her convictions. Specifically, she argues: (1) that there was no proof that she delivered narcotics, (2) that her conviction was based on impermissible inferences, and (3) that there was no evidence that she exercised dominion over the narcotics. We disagree.

When reviewing a claim regarding the sufficiency of the evidence, we must view the evidence in a light most favorable to the prosecution to determine whether a rational factfinder could have found the essential elements of the crime proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, modified 441 Mich 1201 (1992). Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime. *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996).

To support a conviction for delivery of heroin, the prosecution must prove that defendant had both knowledge of the nature of the substance and an intent to deliver the substance to another. *People v Tate*, 134 Mich App 682, 694; 352 NW2d 297 (1984). To support a conviction for possession with intent to deliver less than fifty grams of heroin, the prosecution must prove: (1) that the recovered substance is heroin, (2) that the heroin is in a mixture weighing less than fifty grams, (3) that the defendant was not authorized to possess the substance, and (4) that the defendant knowingly possessed the heroin with the intent to deliver. *Wolfe, supra* at 516-517 (involving the controlled substance cocaine).

Here, the evidence adduced at trial showed that an undercover officer had information that drugs were being sold from a certain house.¹ The officer went to that location and purchased heroin through a slot from a person that he could only identify as a female. The purchase was made with two marked five-dollar bills. The undercover officer then radioed other officers and informed them that the purchase had been made. The other officers then raided the residence and found defendant sitting on the stairway. Defendant fled, and an officer pursued her up the stairs and into an apartment, where he found her bent over with her hand behind a refrigerator. According to the police, there were also four males in the apartment, but no other females. The officers did not search the rest of the house. When one of the officers searched behind the refrigerator, he found a bundle of ten coin envelopes containing heroin and two five-dollar bills. The bills were later identified as the same ones used by the undercover officer to purchase heroin.

Defendant’s arguments regarding the sufficiency of the evidence simply ask us to view the evidence in a light other than that most favorable to the prosecution. This we will not do. Defendant’s gender, her proximity to the door when the police entered, her attempt to flee, and, most importantly, her proximity to the envelopes of heroin and the marked money when she was apprehended, provided strong evidence of her guilt. Taken in the light most favorable to the

prosecution, this circumstantial evidence was sufficient to support her convictions. *Wolfe, supra* at 525-526.

Affirmed.

/s/ Henry William Saad

/s/ Myron H. Wahls

/s/ Hilda R. Gage

¹ The house was apparently a “two family flat” with a subdivided upper flat, meaning that the second story was divided into two apartments.