

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RUFUS A. SAMUEL,

Defendant-Appellant.

UNPUBLISHED

August 31, 2001

No. 223449

Wayne Circuit Court

LC No. 98-010603

Before: Wilder, P.J., and Hood and Griffin, JJ.

MEMORANDUM.

Defendant appeals as of right from a jury conviction of delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv), for which he was sentenced to life probation. We affirm.

In reviewing the sufficiency of the evidence in a criminal case, this Court must review the record de novo and, viewing the evidence in a light most favorable to the prosecution, determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997); *People v Hammons*, 210 Mich App 554, 556; 534 NW2d 183 (1995). Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of the crime. *People v Gould*, 225 Mich App 79, 86; 570 NW2d 140 (1997). All conflicts in the evidence are to be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

The elements of the crime charged are that (1) the defendant delivered a controlled substance, (2) the substance delivered was cocaine, (3) the defendant knew that the substance he delivered was cocaine, and (4) the substance was in a mixture that weighed less than fifty grams. CJI 2d 12.2. The term “deliver” or “delivery” is defined as “the actual, constructive, or attempted transfer from 1 person to another of a controlled substance, whether or not there is an agency relationship.” MCL 333.7105(1).

The evidence showed that the police received a tip about a man selling cocaine at a particular address. They drove to the area and saw defendant standing on the sidewalk. While conducting surveillance, the police saw a truck drive up and stop across the street. Defendant approached and spoke to the driver for a few seconds, went inside a house, returned after a minute, and handed the driver a white object in exchange for cash. The truck left and the police

stopped it a few blocks away. The police saw the driver put something in the back of his truck as he pulled over. Looking in that spot, an officer found a wad of napkins that resembled the white object defendant had sold to the driver. Wrapped inside the napkins were seven plastic coin envelopes that were later found to contain 5.35 grams of a material containing cocaine. One could reasonably infer that the wad of napkins found in the driver's truck was the same object defendant had sold to him minutes earlier. Accordingly, we find that the evidence was sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that defendant delivered cocaine.

Affirmed.

/s/ Kurtis T. Wilder

/s/ Harold Hood

/s/ Richard Allen Griffin