

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHANIKA ROCHELLE LEWIS,

Defendant-Appellant.

UNPUBLISHED

April 14, 2009

No. 282284

Wayne Circuit Court

LC No. 07-012971-FH

Before: Wilder, P.J., and Meter and Servitto, JJ.

PER CURIAM.

Defendant appeals as of right her bench trial conviction of possession with intent to distribute marijuana, MCL 333.7401(2)(d)(iii). Defendant was sentenced to 18 to 48 months' imprisonment. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues on appeal that there was insufficient evidence to support her conviction because the prosecution failed to establish that she possessed the marijuana with the requisite intent to deliver it. We disagree.

A challenge to the sufficiency of evidence is reviewed by this Court de novo. *People v Cline*, 276 Mich App 634, 642; 741 NW2d 563 (2007). This Court must “view the evidence in a light most favorable to the prosecution and determine if any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *Id.*, quoting *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). When reviewing a sufficiency of evidence claim, all conflicts in the evidence must be resolved in favor of the prosecution. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). It is solely the trier of fact's role to weigh the evidence and judge the credibility of witnesses. *Wolfe*, *supra* at 514. Therefore, “[i]t is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences.” *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

To establish that defendant possessed marijuana with intent to deliver, “the prosecution had to prove beyond a reasonable doubt that (1) defendant knowingly possessed a controlled substance, (2) defendant intended to deliver the controlled substance to someone else, (3) the substance possessed was marijuana and defendant was aware that it was, and (4) the marijuana was in a mixture that weighed less than five kilograms.” *People v Williams*, 268 Mich App 416,

419-420; 707 NW2d 624 (2005). “An actor’s intent may be inferred from all of the facts and circumstances, and because of the difficulty of proving an actor’s state of mind, minimal circumstantial evidence is sufficient.” *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998) (internal citations omitted). Also, “[i]ntent to deliver has been inferred from the quantity of narcotics possessed, from the way in which those narcotics are packaged, and from other circumstances surrounding the arrest.” *Wolfe, supra* at 524.

As earlier indicated, defendant only contends that there was insufficient evidence to show that she possessed the requisite intent to deliver the marijuana. Viewing the evidence in a light most favorable to the prosecution, it was sufficient to show that defendant intended to deliver marijuana. Defendant was arrested with four small plastic bags containing a total of 3.5 grams of marijuana. The packaging of this marijuana in separate small bags permitted the reasonable inference that defendant intended to distribute this marijuana to more than one person. In *Williams, supra* at 422, this Court held that marijuana separated into six small plastic bags was evidence that the defendant intended to deliver that marijuana to others because of the packaging and number of individual bags. Additionally, Sergeant Andrew White observed defendant hand a small plastic object to an unidentified female, in exchange for money, while standing in front of an apartment building. Based on his experience in observing this type of transaction, White believed that defendant had passed narcotics. Moreover, defendant was arrested with over \$3,000 in cash that she claimed was money from a legal source withdrawn from her bank account in order to pay her traffic tickets. However, the trial court found the defendant’s explanation incredible, and concluded that it was unreasonable for a person to be carrying around that much cash for any purpose. Also, the trial court found the testimony of White and the arresting officer, Aubrey Sargent, to be more credible than the testimony of defense witnesses and defendant. While the defense brought forth evidence that defendant never got out of the automobile, the trial court, as the trier of fact, was in the best position to evaluate the witnesses’ credibility. The trial court found Sergeant White’s description of the woman observed handing the small plastic object to another to match the description of the defendant when she was found seated in the car and arrested by Officer Aubrey Sargent. Again, it is solely the trier of fact’s role to weigh the evidence and to evaluate the credibility of witnesses. *Wolfe, supra* at 514. Accordingly, based on these facts and circumstances, a rational trier of fact could have found beyond a reasonable doubt that the defendant possessed the marijuana with the intent to deliver it to another.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Patrick M. Meter
/s/ Deborah A. Servitto