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**STATE OF MINNESOTA
IN COURT OF APPEALS**

A06-2100

State of Minnesota,
Respondent,

vs.

Tanzie Shawn Leeks,
Appellant.

**Filed February 12, 2008
Affirmed
Ross, Judge**

Stearns County District Court
File No. K9-06-617

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Janelle Kendall, Stearns County Attorney, Michael J. Lieberg, Assistant County Attorney, 705 Courthouse Square, Room 448, St. Cloud, MN 56303-4701 (for respondent)

John M. Stuart, State Public Defender, Susan Andrews, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104, (for appellant)

Considered and decided by Dietzen, Presiding Judge; Ross, Judge; and Lansing,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

Tanzie Leeks was convicted of a third-degree controlled substance offense. Police arrested Leeks after a police informant bought crack cocaine from him using recorded money identifiable by police. Leeks appeals the conviction, arguing that the evidence used to convict him was insufficient because St. Cloud police usually have audio recordings of controlled drug purchases and no recording was made in this case. Because eyewitness testimony of the drug transaction is sufficient evidence to support the conviction, we affirm.

FACTS

Ernest Moss is a convicted felon who has served as a confidential informant for the St. Cloud police department. As an informant, he set up “drug buys” downtown. The police supplied him with cash with recorded serial numbers for later identification. The police also would outfit Moss with an audio transmitter, enabling them to listen to the drug transactions.

Moss participated in a controlled buy for police on February 1, 2006. Before the buy, police searched Moss to assure that he possessed no money or drugs. His supervising officer then gave him \$100 in recorded cash. Using this money, Moss paid \$80 to Tanzie Leeks in exchange for crack cocaine. But during the purchase, Moss’s transmitter stopped working. When the supervising officer realized the transmitter had failed, he telephoned Moss, and they arranged to meet. When they met, Moss gave the officer the cocaine he had purchased from Leeks and the remaining \$20 of the buy

money. Moss also described Leeks's clothing and his direction of travel. The officer radioed the identifying information to other officers, who soon located and arrested Leeks. He was carrying \$80 in cash with serial numbers that matched Moss's buy money.

Leeks testified at trial and offered an alternative factual explanation. He claimed that he and Moss played four games of pool, betting \$20 per game, and that Moss lost all four. He alleged that Moss approached him shortly before Leeks left the bar and paid him the \$80 he had won. The jury was not convinced. It convicted Leeks, and he appeals, challenging the sufficiency of the evidence.

D E C I S I O N

The only issue on appeal is whether the evidence presented at trial was sufficient to support Leeks's conviction. It was. In reviewing a sufficiency-of-the-evidence challenge, we ask whether a factfinder could reasonably conclude that the defendant was guilty of the offense. *State v. Jones*, 556 N.W.2d 903, 913 (Minn. 1996). We view the evidence "in the light most favorable to the prosecution and assume the jury believed the state's witnesses and disbelieved any contrary evidence." *Id.* Nonetheless, the factfinder must have acted with due regard for the presumption of innocence and the necessity of overcoming that presumption by proof beyond a reasonable doubt. *State v. Combs*, 195 N.W.2d 176, 178 (Minn. 1972). So we must assume that the jury believed Moss's testimony that Leeks sold him the cocaine. And we assume that the jury disbelieved Leeks's contrary gambling-proceeds explanation.

Leeks argues that because Moss's transmitter stopped working, and because the police never tested the baggies for Leeks' fingerprints, we should conclude that the state failed to prove his guilt beyond a reasonable doubt. Leeks also argues that someone else might have sold the drugs to Moss.

Leeks's factual claim that the evidence might support some other conclusion than his guilt is not implausible. But it does not meet the standard to compel us to reverse the jury verdict. Under the facts in the record and the legitimate inferences that can be drawn from them, the jury could easily conclude, as it did, that Leeks is guilty of the offense charged. Because Moss's testimony, his identification of Leeks, and Leeks's possession of the identifiable money readily support the jury's guilty verdict, we affirm the conviction.

Affirmed.