

**Affirmed and Memorandum Opinion filed November 18, 2010.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-09-00944-CR**

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**ANGELO KEITH CLARK, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 351st District Court  
Harris County, Texas  
Trial Court Cause No. 1165047**

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**M E M O R A N D U M    O P I N I O N**

Appellant Angelo Keith Clark was convicted of possession of cocaine. He was sentenced to 25 years' confinement in the Institutional Division of the Texas Department of Criminal Justice. On appeal he challenges the legal and factual sufficiency of the evidence to support his conviction. We affirm.

On May 1, 2008, Officer Edward Fendia of the Houston Police Department was dispatched to an address regarding a possible assault. The assailant was described as an African-American male driving a blue car in the parking lot of a hotel. The dispatcher

informed Officer Fendia the assailant had just assaulted the 911 caller. When Officer Fendia arrived at the parking lot, he saw one African-American male standing next to a blue car in the back section of the parking lot, exactly as the caller had described. When Officer Fendia approached the man, later identified as appellant, and asked to speak with him, appellant became hostile. Officer Fendia further testified that appellant's eyes were glassy, his speech was slurred, and a strong odor of alcohol emanated from him. Because appellant showed signs of intoxication and appeared to be a danger to others, Officer Fendia arrested him for public intoxication. After arresting him, Officer Fendia conducted an inventory search of appellant's person. In appellant's right front pants pocket, Officer Fendia discovered a clear plastic baggie containing an off-colored white substance that he suspected to be crack cocaine. A field test and lab test later confirmed that the substance was cocaine.

In evaluating the legal sufficiency of the evidence to support a criminal conviction, we view all evidence in the light most favorable to the verdict and determine whether a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). The jury is the exclusive judge of the credibility of the witnesses and of the weight to be given their testimony, and it is the exclusive province of the jury to reconcile conflicts in the evidence. *Mosley v. State*, 983 S.W.2d 249, 254 (Tex. Crim. App. 1998). Hence, we do not reevaluate the weight and credibility of all the evidence or substitute our judgment for the fact finder's. *King v. State*, 29 S.W.3d 556, 562 (Tex. Crim. App. 2000).

With regard to the factual sufficiency of the evidence, a majority of the judges on the Court of Criminal Appeals recently determined that "the *Jackson v. Virginia* legal-sufficiency standard is the only standard that a reviewing court should apply in determining whether the evidence is sufficient to support each element of a criminal offense that the State is required to prove beyond a reasonable doubt." *Brooks v. State*, No. PD-0210-09, 2010 WL 3894613, at \*1 (Tex. Crim. App. October 6, 2010) (plurality op.); 2010 WL 3894613, at 14 (Cochran, J., concurring)(same conclusion as plurality).

Therefore, we will review the evidence under the standard set out in *Jackson v. Virginia*.

An individual commits the offense of possession of cocaine if he knowingly or intentionally exercises actual care, custody, control, or management over cocaine. *See* Tex. Health & Safety Code Ann. §§ 481.002(38), 481.102(3)(D), & 481.115(a) (West 2010). The State presented the testimony of the arresting officer and the Houston Police Department chemist, and the cocaine was admitted into evidence. The officer testified that he removed a clear plastic bag from appellant's right front pants pocket containing a substance that appeared to be cocaine. The chemist confirmed that the substance was indeed cocaine. On appeal, appellant does not specify how the evidence is insufficient to support his conviction. It is rational for a jury to conclude that an individual is aware of the contents of his pants pocket, particularly when those contents are in a clear plastic bag. Viewing the evidence in the light most favorable to the verdict, we conclude that a rational jury could have concluded beyond a reasonable doubt that appellant knowingly possessed cocaine. Appellant's issues are overruled.

The judgment of the trial court is affirmed.

PER CURIAM

Panel consists of Justices Anderson, Frost, and Brown.

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