

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 66121-3-I
)	
Respondent,)	
)	
v.)	
)	
DAYLAE THOMAS,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: June 13, 2011
)	

Ellington, J. — Daylae Thomas contends there was insufficient evidence at trial to support his conviction, as an accomplice, of violation of the uniform controlled substances act, RCW 69.50.401. We find no error and affirm.

BACKGROUND

On March 22, 2010, Officers Bailey, Vaca, and Pasquan were working undercover as part of a buy/bust operation in the Pioneer Square neighborhood. Bailey observed Thomas and an individual later identified as Mark Skinner walking together. The two separated and Skinner stood near a business adjacent to an alley. Thomas stood on the on the street about 20 to 25 feet from Skinner.

Officer Bailey testified Thomas was looking up and down the street while Skinner engaged in what appeared to be hand-to-hand drug sales. It did not appear Thomas had contact with any of the individuals purchasing from Skinner.

Skinner and Thomas met again and crossed the street toward Officer Bailey. When Bailey made eye contact with Thomas, Thomas grabbed onto Skinner and the two changed direction. Bailey provided a description of the two for the other officers in the area.

Officer Vaca was an undercover purchaser. He spotted Thomas and Skinner in Occidental Park, where Skinner was apparently engaged in drug sales, and approached. Thomas was standing to one side of Skinner and Vaca on the other. Vaca heard Thomas say, "Hurry up, man,"¹ but did not know to whom he was talking. Vaca gave Skinner \$60 in prerecorded buy money, and Skinner gave him crack cocaine. Vaca lingered momentarily and heard Thomas say, "Leave, man."² Vaca left and gave his "good buy" signal to fellow officers.

Officer Pasquan was observing the interaction between Thomas, Skinner, and Vaca. When Thomas and Skinner looked in Pasquan's direction, they turned to walk out of the park together. They briefly broke into a run, but were soon thereafter contacted by police and arrested.

Skinner was carrying cocaine, the prerecorded buy money, and some additional cash. A search of Thomas revealed nothing of evidentiary value. Vaca testified he did not see anything exchanged between Thomas and Skinner or between Thomas and the individuals that approached Skinner. Officer Pasquan confirmed this testimony.

¹ Report of Proceedings (Sept. 2, 2010) at 127.

² Id. at 129.

The court found Thomas assisted in the drug deal and knew his assistance would aid the commission of the drug deal, and concluded the State had proven Thomas was an accomplice to the drug deal between Skinner and Officer Vaca.

DISCUSSION

Thomas contends there was insufficient evidence to convict him of being an accomplice to Skinner's drug sale to Vaca. In a challenge to the sufficiency of the evidence, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the accused.³ Evidence is sufficient if, when viewed in the light most favorable to the prosecution, any rational trier of fact could have found the elements of the crime beyond a reasonable doubt.⁴

A person may be found guilty of a crime as either a principle or an accomplice. A person is an accomplice of another person in the commission of a crime if, with knowledge that it will promote or facilitate the commission of a crime, he "aids or agrees to aid such other person in planning or committing it."⁵ Awareness and physical presence at the scene of an ongoing crime— even when coupled with assent— are not enough to convict a person as an accomplice unless that person stands "ready to assist" in the crime.⁶

The evidence in this case shows Thomas was "ready to assist" in the sale of cocaine. Officers Bailey and Vaca, both experienced in undercover buy/bust

³ State v. Gentry, 125 Wn.2d 570, 597, 888 P.2d 1105 (1995).

⁴ Id. at 596–97.

⁵ RCW 9A.08.020(3)(a)(i–ii).

⁶ In re Welfare of Wilson, 91 Wn.2d 487, 491, 588 P.2d 1161 (1979).

operations, explained the role of a “lookout” in a drug deal as being to alert the person selling drugs of potential threats. Officer Bailey testified Thomas actively looked up and down the street while Skinner was involved in five drug transactions, directed Skinner in a different direction upon seeing an undercover police officer, remained very close to Skinner while he engaged in drug transactions in Occidental Park, made two comments urging the quick conclusion of those transactions, and left the area with Skinner afterwards.

Viewing this evidence in the light most favorable to the prosecution, we find no error in the court’s findings and conclusions that Thomas was an accomplice to the crime of violation of the uniform controlled substances act.

Affirmed.

Edenborn, J.

WE CONCUR:

Leach, a.c.j.

Cox, J.