

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

No. 38923-1-II

STATE OF WASHINGTON,  
Respondent,

v.

ANSELMO NOICOLAS BARRERA,  
AKA “MEMO”,  
Appellant.

UNPUBLISHED OPINION

Worswick, J.—Anselmo Barrera appeals his conviction of unlawful delivery of a controlled substance, challenging the sufficiency of the evidence. Finding sufficient evidence to support the conviction, we affirm.<sup>1</sup>

**FACTS**

During the week of August 18, 2008, the Mason County Sheriff’s Office, Special Operations Group (SOG), conducted two controlled buys with the help of Christopher Cichocki. Cichocki was on probation but had no criminal charges or probation violations pending. He was working for the SOG because he was concerned about the availability of drugs in his younger brother’s high school.

During the first buy, which occurred on August 19, Cichocki purchased methamphetamine

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<sup>1</sup> A commissioner of this court considered this matter pursuant to RAP 18.14 and referred it to a panel of judges.

from two individuals Barrera dropped off at his residence. Cichocki arranged a second purchase on August 20. After the first buy, Barrera gave Cichocki his cell phone number, which he called. Barrera answered but passed the phone to another person because Cichocki had difficulty understanding him. At the time, Cichocki did not know who that person was, but Detective Matt Ledford, who was listening in, recognized the voice as Fernando Delacruz, the son of Barrera's girlfriend. Cichocki made the purchase arrangements with Delacruz and then waited in his driveway for delivery of the methamphetamine.

After half an hour, a truck driven by Barrera arrived. There were three occupants in the vehicle, Barrera, Delacruz, and an unidentified female. Delacruz was in the front passenger seat. Cichocki handed the buy money to Delacruz, who handed it to Barrera. Barrera handed the methamphetamine to Delacruz, who passed it to Cichocki. The transaction took about five minutes.

The next day, SOG officers obtained a search warrant for Barrera's truck and trailer. Barrera was present when the officers conducted the search, and Detective Ledford arrested him. In the search pursuant to arrest, the detective found a packet of methamphetamine in Barrera's front jeans pocket.

The State charged Barrera with two counts of delivery of a controlled substance and one count of possession of a controlled substance. Barrera waived his right to a jury. At trial Delacruz testified that he had set up the controlled buy using Barrera's phone because he had no cell phone of his own, having just gotten out of jail. He explained that Barrera had driven because he did not have a car or a driver's license and that he had told Barrera that he needed a ride to a

friend's house. Delacruz also insisted that he had conducted the transaction entirely on his own, with his back turned to Barrera. Cichocki testified Delacruz handed the money to Barrera, who took it and handed the drugs to Delacruz. The trial court found Barrera not guilty of the August 19 delivery charge but found him guilty of the second count of unlawful delivery of a controlled substance and one count of unlawful possession of a controlled substance. Barrera challenges only the delivery conviction, contending there is not sufficient evidence to support finding of fact 16 which states, "[Barrera] stopped the truck and the passenger door opened and Cichocki gave the passenger [Delacruz] money who gave it to [Barrera], who then gave the methamphetamine to the passenger who then handed it to Cichocki." Clerk's Papers at 30.

#### ANALYSIS

When reviewing a sufficiency case for the evidence, we review the evidence in the light most favorable to the prosecution. *State v. Montgomery*, 163 Wn.2d 577, 586, 183 P.2d 267 (2008). If it is enough to allow any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt, we will uphold the conviction. *Montgomery*, 163 Wn.2d at 586.

A claim of sufficiency admits the truth of the State's evidence and all reasonable inferences therefrom. Circumstantial evidence is as reliable as direct evidence. *State v. Turner*, 103 Wn. App. 515, 520, 13 P.3d 234 (2000). Credibility determinations are for the trier of fact and are not subject to review. *State v. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970 (2004).

Cichocki testified that Barrera took the money he handed to Delacruz and provided the methamphetamine. This testimony was sufficient to allow the trial court to find the essential elements of the charge of unlawful delivery of a controlled substance. Barrera relies on the

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contrary testimony provided by Delacruz. But the trial court did not find Delacruz credible.

Credibility determinations are for the trier of fact and are not subject to review.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

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Worswick, A.C.J.

We concur:

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Armstrong, J.

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Van Deren, J.