



## OPINION

The defendant was indicted for selling less than .5 grams of cocaine and was convicted of this offense by a jury. After a hearing, he was sentenced to three years, six months in the Tennessee Department of Correction and fined ten thousand dollars (\$10,000). In this appeal as of right, the defendant challenges only the sufficiency of the evidence. After a review of the record, we affirm.

On July 26, 1994, Officer Scott Wyrick of the Henry County Sheriff's Department met with James Yeager and Karen Wofford. Yeager and Wofford were working as undercover agents for the Department. Wyrick gave Yeager sixty dollars and instructed him and Wofford to use this money in an attempt to purchase drugs. Wyrick also affixed a transmitting device on Yeager's body, and searched him and his vehicle for narcotics. Wyrick also provided Wofford with a tape recorder. Yeager and Wofford then left in Yeager's car to try and make drug buys.

While they were out, they picked up a woman Wofford knew, named Angie Wofford (no blood relation). The two women attempted to purchase drugs from a man known as "Fat Daddy" but he would not sell to them. Later, Angie saw the defendant, whom Yeager and Wofford did not know, get out of the car and approached him about finding some drugs to buy. The defendant got in the car and patted down Yeager and Wofford, but did not find the recording devices. He asked Yeager what he needed, and Yeager explained he "wanted a forty dollar rock." The defendant then directed Yeager to an establishment called Royce's, where Fat Daddy had earlier declined to sell drugs to the Wofford women.

After arriving at Royce's, the defendant and Wofford entered and the defendant approached Fat Daddy about selling cocaine. Fat Daddy refused to make the sale in front of Wofford, and the defendant told her to give him the money and wait outside. She did so, and the defendant then joined her "two seconds" later. At that point, the defendant gave Wofford a small rock of crack cocaine. They both got back in the car and Yeager then returned the defendant to the location at which they had picked him up. Yeager also paid Angie Wofford ten dollars (\$10) for assisting in the buy. After dropping off their passengers, Yeager and Wofford returned to the drug task force office and handed over the cocaine and the remaining ten dollars (\$10). They also described the defendant's distinctive physical appearance and subsequently identified him from a photograph.

Yeager testified that he did not see the cocaine change hands. The transaction was not recorded because the tape had run out by the time the sale occurred. Nor was the transaction transmitted to the monitoring police officer because Yeager was in the car while Wofford and the defendant were standing outside Royce's. However, Wofford testified that the defendant had handed her the rock cocaine in exchange for the \$40. The defendant challenges her testimony on the grounds that she was an admitted drug addict who was in the process of recovery and that she was paid for every undercover drug deal she made. In other words, the defendant makes a classic credibility argument.

When an accused challenges the sufficiency of the convicting evidence, we must review the evidence in the light most favorable to the prosecution in determining whether "any 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, 99 S.Ct. 2781, 61

L.Ed.2d 560 (1979). We do not reweigh or re-evaluate the evidence and are required to afford the State the strongest legitimate view of the proof contained in the record as well as all reasonable and legitimate inferences which may be drawn therefrom. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978).

Questions concerning the credibility of witnesses, the weight and value to be given to the evidence, as well as factual issues raised by the evidence are resolved by the trier of fact, not this Court. Cabbage, 571 S.W.2d 832, 835. A guilty verdict rendered by the jury and approved by the trial judge accredits the testimony of the witnesses for the State, and a presumption of guilt replaces the presumption of innocence. State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973).

The defendant offered no proof in his defense. On cross-examination, his counsel attempted to discredit the testimony of both Yeager and Wofford. However, it is obvious that the jury decided that these two witnesses were credible. We will not overturn the jury's judgment in this regard. Crediting the State's witnesses, there was ample evidence to convict the defendant. This issue is without merit.

The judgment below is affirmed.

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JOHN H. PEAY, Judge

CONCUR:

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PAUL G. SUMMERS, Judge

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DAVID G. HAYES, Judge