

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

NOVEMBER 1996 SESSION

FILED
March 14, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)
)
 Appellee)
)
 V.)
)
 THOMAS A. TUCKER,)
)
 Appellant.)

No. 02C01-9511-CR-00344

SHELBY COUNTY

HON. CHRIS CRAFT,
JUDGE

(Aggravated Burglary; Possession with
Intent to Deliver Controlled Substance)

For the Appellant:

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(On appeal)

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(At trial)

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OPINION FILED: _____

AFFIRMED PURSUANT TO RULE 20

William M. Barker, Judge

OPINION

The appellant, Thomas A. Tucker, appeals as of right his convictions in the Shelby County Criminal Court for aggravated burglary and possession of more than .5 grams of cocaine with intent to deliver. He was sentenced to fifteen (15) years in the Department of Correction and fined \$15,000 on the possession offense. He received a seven (7) year concurrent sentence in the workhouse on the aggravated burglary conviction.

On appeal, appellant challenges only the sufficiency of the convicting evidence for each conviction.¹ We find no merit to appellant's claims and affirm the judgment of the trial court in all respects. In his arguments challenging the convictions, appellant failed to cite any authority for his propositions. As such, we consider the issues waived. Tenn. R. Ct. Crim. App. 10(b); State v. Killebrew, 760 S.W.2d 228, 231 (Tenn. Crim. App. 1988).

Furthermore, even were we to address the issues on the merits, appellant is not entitled to relief. He argues that the aggravated burglary conviction cannot stand because no one actually saw him enter the residence and there was no proof of forced entry. However, a neighbor observed appellant wandering through the victim's yard empty-handed and saw him disappear around the back of the home. She knew he did not reside at the home. About thirty minutes later, she observed him leaving the yard carrying a VCR; appellant waved to her as he departed. The VCR was later recovered from another individual, and that person testified that appellant sold it to him. The evidence was sufficient to prove all the elements of the offense. See Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

In challenging the convicting evidence for the drug offense, appellant argues that there was no proof of his intent to deliver the cocaine. A bag containing thirty-one

¹Appellant's issue requesting correction of the incorrect conviction offense on the judgment form is improperly before this Court. Such clerical errors may be remedied by motion in the trial court under Rule 36 of the Tennessee Rules of Criminal Procedure.

(31) rocks of cocaine was seized from appellant at the police station. A police officer testified that possession of this quantity of cocaine generally implies that the substance is not possessed for personal consumption, but rather for resale. It was within the jury's purview to credit such testimony from the police officer, as it is the sole judge of the credibility of witnesses. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). This issue is without merit.

Finding that no error of law was committed by the trial court and that an opinion would have no precedential value, appellant's convictions and sentences are affirmed pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

William M. Barker, Judge

Gary R. Wade, Judge

David G. Hayes, Judge