IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

DECEMBER 1996 SESSION

FILED

March 20, 1997

Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,	)
	) C.C.A. No. 01C01-9604-CC-00125
Appellee,	)
	) Williamson County
V.	)
	) Honorable Henry Denmark Bell, Judge
TONY WHITSEY,	)
	) (Sale of Cocaine)
Appellant.	)

FOR THE APPELLANT:

John H. Henderson
District Public Defender

C. Diane Crosier
Assistant Public Defender
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FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

PAUL G. SUMMERS,
Judge

O P I N I O N

The appellant, Tony Whitsey, was convicted in a bench trial of sale of a controlled substance. He was sentenced to 8 years in community corrections and fined $2,000. He appeals his conviction alleging that the evidence was insufficient to sustain his conviction and that the state failed to properly prove the chain of custody of the controlled substance. Upon review, we affirm.

FACTS

The appellant was arrested as a result of an undercover operation conducted by the Franklin Police Department. The Franklin police sent two confidential informants into a known drug trafficking area to attempt to buy crack cocaine. The two informants were given $80 to purchase the controlled substance. The appellant sold one of the informants several "rocks" of crack. He was subsequently arrested.

I

When an appellant challenges the sufficiency of the evidence on appeal, the state is entitled to both the strongest legitimate view of the evidence and all reasonable inferences which may be drawn therefrom. State v. Cabbage, 571 S.W.2d 832 (Tenn. 1978). Moreover, guilty verdicts remove the presumption of innocence, enjoyed by defendants at trial, and replace it with a presumption of guilt. State v. Grace, 493 S.W.2d 474 (Tenn. 1973). Appellants, therefore, carry the burden of overcoming a presumption of guilt on appeal. Id.

This Court must determine whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of a crime beyond a reasonable doubt. Jackson v. Virginia,

443 U.S. 307 (1979); State v. Duncan, 698 S.W.2d 63 (Tenn. 1985); Tenn. R. App. P. 13(e). The weight and credibility of a witness' testimony are matters entrusted exclusively to the trier of fact. State v. Sheffield, 676 S.W.2d 542 (Tenn. 1984); Byrge v. State, 575 S.W.2d 292 (Tenn. Crim. App. 1978).

At trial, one of the confidential informants testified that he witnessed the appellant sell several "rocks" of cocaine for $80. The appellant attempted to discredit the witness by challenging his ability to perceive and view the transaction. The trier of fact apparently believed the testimony of the confidential informant. The appellant has not met his burden. This issue is without merit.

II

The appellant next contends that the trial judge erred in allowing admission of the cocaine. He claims that the state failed to establish a proper chain of custody to allow the cocaine to be admitted into evidence.

As a condition precedent to the introduction of tangible evidence, a witness must be able to identify the evidence or establish an unbroken chain of custody. Bolen v. State, 544 S.W.2d 918, 920 (Tenn. Crim. App.1976). Whether the requisite chain of custody has been sufficiently established to justify the admission of evidence is a matter committed to the sound discretion of the trial judge. Ritter v. State, 462 S.W.2d 247, 249 (Tenn. 1970); Wade v. State, 529 S.W.2d 739 (Tenn. Crim. App. 1975). This determination will not be overturned in the absence of a clearly mistaken exercise of that discretion. Ritter, 462 S.W.2d at 249.

Upon review, we find that the state adequately established the chain of custody of the crack cocaine. Nothing in the record indicates the trial judge mistakenly abused his discretion. This issue is without merit.

Finding no errors of prejudicial dimensions, we affirm the judgment of the trial court.

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PAUL G. SUMMERS, Judge

CONCUR:

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WILLIAM M. BARKER, Judge

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JOE G. RILEY, Judge