IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
January 21, 2015 Session

STATE OF TENNESSEE v. JEFFREY LEE MARTIN

Appeal from the Circuit Court for Blount County
No. C-21408 Tammy Harrington, Judge

No. E2014-00308-CCA-R3-CD - Filed April 8, 2015

A Blount Court Circuit Court jury convicted the defendant, Jeffrey Lee Martin, of promoting the manufacture of methamphetamine, and the trial court imposed a Range II sentence of 8 years' incarceration. In this appeal, the defendant challenges the sufficiency of the convicting evidence, argues that the trial court erred by denying his motion to suppress, and claims that the trial court erroneously limited his cross-examination of a certain witness. Discerning no error, we affirm the judgment of the trial court.

Tenn. R. App. P. 3; Judgment of the Circuit Court Affirmed

JAMES CURWOOD WITT, JR., J., delivered the opinion of the Court, in which D. KELLY THOMAS, JR., and ROBERT H. MONTGOMERY, JR., JJ., joined.

W. Tyler Weiss, Madisonville, Tennessee, for the appellant, Jeffrey Lee Martin.

Herbert H. Slatery III, Attorney General and Reporter; Ahmed A. Safeeullah, Assistant Attorney General; Mike Flynn, District Attorney General; and Matthew L. Dunn, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

The defendant's conviction relates to his driving from his home in Madisonville to Maryville to purchase a product containing pseudoephedrine, ostensibly to then sell the product to a manufacturer of methamphetamine.

At trial, Blount County Sheriff's Department Lieutenant and Fifth Judicial

District Drug Task Force Assistant Director Robert Nease,[1] who was certified as an expert in narcotics investigations, testified that "[s]murfing is when individuals go out to the community and buy components or precursors needed to manufacture methamphetamine. And . . . pseudoephedrine is that main component . . . needed to manufacture methamphetamine." He said that, in his experience, one mark of "smurfing" is the traveling of an individual over "a long distance to purchase pseudoephedrine because they are either known where they live as someone involved in that activity or because of past reasons" their attempted purchase will be refused. Many times, he said, these individuals will arrive as a group and stagger their purchases and that the favorite locations of "smurfers" were Target and Kroger pharmacies. He said that a box of pseudoephedrine purchased for between $5 and $12 could be sold on the street for "anywhere from $50 to $80 a box." He explained that with advances in "cooking" methods, methamphetamine could be manufactured from pseudoephedrine at a one-to-one ratio, meaning that one gram of pseudoephedrine could yield one gram of methamphetamine. Methamphetamine typically sold for $100 per gram.

Lieutenant Nease said that on October 29, 2012, he received a call from the Target Pharmacy asking for officers to respond. When he arrived, he joined others who had assembled a surveillance team, and he "listened to the surveillance team on the radio." He then saw the defendant leave the Target in a maroon Toyota. After leaving the Target store, the vehicle made its way to the Kroger, where Lieutenant Nease was waiting inside. Inside the store, Lieutenant Nease observed Mitchell McKenzie purchase a box of cold medication that contained pseudoephedrine. At that point, Lieutenant Nease advised the other members of the surveillance team that the purchase had been made. When he exited the store, he saw other officers detaining the occupants of the maroon Toyota, including the defendant and Mr. McKenzie. Officers confiscated three boxes of medication containing pseudoephedrine. One box of Up and Up brand medication purchased from Target at 1:22 p.m. contained 2.4 grams of pseudoephedrine. A box of Aleve brand medication was purchased at Target at 1:31 p.m., and a box of Kroger brand medication was purchased at 1:59 p.m. Cough drops were also purchased at the Kroger and the Target, and Lieutenant Nease explained that the purpose of those purchases was to give the appearance that the medications were being purchased for legitimate reasons.

Lieutenant Nease opined, based upon his training and expertise, that the three individuals made the three purchases separated by time and/or distance because they were not going to be used for a legitimate purpose. Otherwise, he said, the three individuals could have purchased the medication at the same time and location. "It was," he said, "an apparent attempt to throw suspicion off themselves to stagger both going in the Target." They also

[1]The lieutenant's surname is spelled "Nease" in the trial transcript and on the witness list for the indictment but "Neese" in the transcript of the motion hearing. We utilize the former.

did not go to the Kroger store next door to the Target but to one "across town."

Mitchell McKenzie testified that both he and the defendant lived in Madisonville and that the third individual was also from Monroe County. He said that he had been charged with a criminal offense for purchasing pseudoephedrine on October 29, 2012, and that, in consideration for his testimony at the defendant's trial, the State had agreed to some leniency on that charge. On October 29, 2012, Mr. McKenzie and the defendant discussed driving "to Maryville to purchase pseudoephedrine to take back to Monroe County to sell" to a person "to manufacture meth." He said that they decided to drive to Maryville because "you can't buy it in Madisonville." The defendant provided the money to make the initial purchase, and Mr. McKenzie was to be paid $40 for his "trouble."

Mr. McKenzie was detained immediately after exiting the Kroger, and he provided the following statement to the police: "I, Mitchell McKenzie came to Blount County to purchase pseudoephedrine to take back to Monroe County to sell to an individual for the sole purpose of cooking meth. I was to receive $40 for my trouble."

Alcoa Police Department and Fifth Judicial District Drug Task Force Officer Brett Hayden Romer, who acted as the case agent in this case, also observed the defendant and a third individual exit the same vehicle at different times to go into the Target to make a purchase. After officers followed the vehicle to Kroger, a decision was made to approach the individuals in the parking lot of the Kroger. Officers discovered three separate boxes of medication containing pseudoephedrine during a subsequent search.

The State rested, and after a full *Momon*[2] colloquy, the defendant elected not to testify and chose to present no proof. The jury convicted the defendant as charged of one count of promoting the manufacture of methamphetamine.

Following the denial of his timely motion for new trial, the defendant filed a timely notice of appeal. In this appeal, the defendant contends that the trial court erred by denying his motion to suppress evidence obtained during his detention at the Kroger, that the trial court erred by limiting the defendant's ability to cross-examine Mr. McKenzie, and that the evidence was insufficient to support his conviction. We consider each claim in turn.

I. Motion to Suppress

Prior to trial, the defendant moved the trial court to suppress evidence obtained following his detention in the parking lot of the Kroger, claiming that the officers lacked

[2] *See Momon v. State*, 18 S.W.3d 152, 161-62 (Tenn. 1999).

probable cause or reasonable suspicion.

At the hearing on the defendant's motion, Lieutenant Nease testified that on October 29, 2012, he received a call on his cellular telephone from someone at the Target pharmacy alerting him to a suspicious person purchasing pseudoephedrine. He had a surveillance team respond to that location immediately, and he listened to the surveillance via his radio while maintaining contact with the Target via telephone. He learned that a man matching the defendant's physical description had purchased pseudoephedrine, exited the store, and gotten into a maroon Toyota. A second individual exited the Toyota, entered the Target, and also purchased pseudoephedrine. When the Toyota exited the Target parking lot, Lieutenant Nease saw Mr. McKenzie in the driver's seat, the defendant in the passenger's seat, and the third individual in the back seat.

Officers followed the maroon Toyota to a Kroger in Alcoa. Lieutenant Nease noted that a Kroger was located next to the Target the vehicle had just left. Once at the Kroger location, Lieutenant Nease followed Mr. McKenzie into the Kroger and watched him purchase a box of medication containing pseudoephedrine. At that point, Lieutenant Nease made the decision to order seizure of the three men and their vehicle. He said that he made the decision to effectuate the stop based upon his training and experience. He explained that those individuals who purchase pseudoephedrine with the intent to sell it to a methamphetamine manufacturer often "come long distances to purchase nothing but pseudoephedrine, pass numerous pharmacies to get to a location that seems to be the preferred pharmacy for people who are purchasing components" of methamphetamine manufacture. In this case, the defendant and his cohorts traveled past numerous pharmacies in Monroe County and Blount County to get to the two that they visited to purchase pseudoephedrine. That the men traveled such a distance given the high price of gasoline was another clue. Additionally, that the men did not go into the pharmacy together despite having arrived together was also suspicious. Finally, Mr. McKenzie acted "in a nervous manner" while inside the Kroger pharmacy. After the officers detained the individuals in the maroon Toyota, Mr. McKenzie and the third individual "gave statements that they were making purchases of pseudoephedrine to take back to Monroe County to s[ell] to meth cooks for $50 to $75 per box." At that point, all three individuals were placed under arrest.

Lieutenant Nease said that all of the drug task force agents present at the Kroger wore badges and clearly identified themselves as law enforcement officers. Identification documentation was obtained from the three individuals in the car, but he could not recall exactly how that information was obtained.

The defendant testified that he and the third individual were "pulled" bodily from the maroon Toyota by men who did not identify themselves as law enforcement officers

and who did not wear badges. He said that after he was pulled from the car, Lieutenant Nease "came up behind [the defendant] and pulled [his] billfold out, got [his] ID, and threw it up on top of the car" while another officer "commenced searching" the defendant. After the other officer found the box of pseudoephedrine, the defendant was placed in handcuffs. He claimed that when he was interviewed following his arrest, the officers told him that if he would provide a written statement that he had purchased pseudoephedrine "to sell it for 50 or $40, $75, somewhere like that" that he would be allowed to "go home today."

During cross-examination, the defendant acknowledged that he lived in Madisonville. He agreed that he passed the Walmart in Maryville, the Foothills Walgreens, and a CVS before arriving at the Target. He agreed that he and the third individual did not enter the Target at the same time despite having arrived together and despite that both men purchased pseudoephedrine.

At the conclusion of the hearing, the trial court denied the defendant's motion to suppress, finding that reasonable suspicion supported the initial detention of the defendant in the parking lot of the Kroger and that information obtained during the investigatory stop provided the probable cause for the defendant's arrest.

In this appeal, the defendant claims that the trial court erred by denying his motion to suppress the evidence seized during the search of his person on October 29, 2012, claiming that the officers lacked probable cause to arrest him. The State contends that the trial court committed no error because the officers had reasonable suspicion for the initial seizure of the defendant and probable cause for his arrest.

A trial court's factual findings on a motion to suppress are conclusive on appeal unless the evidence preponderates against them. *State v. Binette*, 33 S.W.3d 215, 217 (Tenn. 2000); *State v. Odom*, 928 S.W.2d 18, 23 (Tenn. 1996). Thus, questions of credibility, the weight and value of the evidence, and the resolution of conflicting evidence are matters entrusted to the trial judge, and this court must uphold a trial court's findings of fact unless the evidence in the record preponderates against them. *Odom*, 928 S.W.2d at 23; *see also* Tenn. R. App. P. 13(d). As in all cases on appeal, "[t]he prevailing party in the trial court is afforded the 'strongest legitimate view of the evidence and all reasonable and legitimate inferences that may be drawn from that evidence.'" *State v. Carter*, 16 S.W.3d 762, 765 (Tenn. 2000) (quoting *State v. Keith*, 978 S.W.2d 861, 864 (Tenn. 1998)). We review the trial court's conclusions of law under a de novo standard without according any presumption of correctness to those conclusions. *See, e.g.*, *State v. Walton*, 41 S.W.3d 75, 81 (Tenn. 2001); *State v. Crutcher*, 989 S.W.2d 295, 299 (Tenn. 1999). We review the issue in the present appeal with these standards in mind.

The record indicates that the defendant was initially approached by officers while seated in the maroon Toyota and asked to step out of the car.

The record establishes and the State concedes that the defendant was seized when asked to step from the maroon Toyota. *See Delaware v. Prouse*, 440 U.S. 648, 653 (1979); *State v. Cox*, 171 S.W.3d 174, 179 (Tenn. 2005) (temporary detention of an individual during a traffic stop constitutes seizure that implicates the protection of both the state and federal constitutions). Both the state and federal constitutions permit police to conduct a brief investigatory stop supported by specific and articulable facts leading to a reasonable suspicion that a criminal offense has been or is about to be committed. *Terry v. Ohio*, 392 U.S. 1, 20-23 (1968); *Binette*, 33 S.W.3d at 218. Whether reasonable suspicion existed in a particular case is a fact-intensive, but objective, analysis. *State v. Garcia*, 123 S.W.3d 335, 344 (Tenn. 2003). The likelihood of criminal activity that is required for reasonable suspicion is not as great as that required for probable cause and is "considerably less" than would be needed to satisfy a preponderance of the evidence standard. *United States v. Sokolow*, 490 U.S. 1, 7 (1989). A court must consider the totality of the circumstances in evaluating whether a police officer's reasonable suspicion is supported by specific and articulable facts. *State v. Hord*, 106 S.W.3d 68, 71 (Tenn. Crim. App. 2002). The totality of the circumstances embraces considerations of the public interest served by the seizure, the nature and scope of the intrusion, and the objective facts on which the law enforcement officer relied in light of his experience. *See State v. Pulley*, 863 S.W.2d 29, 34 (Tenn. 1993). The objective facts on which an officer relies may include his or her own observations, information obtained from other officers or agencies, offenders' patterns of operation, and information from informants. *State v. Watkins*, 827 S.W.2d 293, 294 (Tenn. 1992).

The evidence adduced at the hearing on the motion to suppress and at trial established that Lieutenant Nease received a telephone call from someone at the Target pharmacy alerting him that a suspicious individual had come from out of town into the store to purchase a product containing pseudoephedrine. By the time the officers began surveillance of the store, the defendant had gone inside and had purchased a product containing pseudoephedrine. The defendant and the other individual had arrived in the same vehicle, a maroon Toyota, but did not enter the store together, and the two men purchased different products containing pseudoephedrine. Officers followed the maroon Toyota from the parking lot of the Target across town to a Kroger store. There, Mr. McKenzie entered the Kroger, and Lieutenant Nease watched him purchase a product containing pseudoephedrine. Lieutenant Nease testified that a Kroger store was located next to the Target, but the men did not go into that store.

We agree with the trial court that these facts established reasonable suspicion

for the officers to conduct an investigative stop of the maroon Toyota and its occupants. Far from working on a "hunch" or solely on the word of an anonymous informant, the officers confirmed that the three men traveled from another county and observed them purchase three boxes of pseudoephedrine and two packages of cough drops. Officers watched as the men went to two different stores on opposite sides of town despite that a Kroger was located right next to the Target. The two men who went into the Target staggered their entries into the store in a manner consistent with an attempt to conceal the fact that they had arrived together. Lieutenant Nease's experience was that the behavior of the three men in this case was consistent with those who purchase pseudoephedrine with the intent to sell it to a methamphetamine manufacturer. Under these circumstances, the initial detention of the defendant was supported by reasonable suspicion.

The trial court also ruled that the officers developed probable cause for the defendant's arrest during the investigatory stop.

> Probable cause in the context of a warrantless arrest exists if, at the time of the arrest, the facts and circumstances within the knowledge of the officers, and of which they had reasonably trustworthy information, are sufficient to warrant a prudent man in believing that the [defendant] had committed or was committing an offense.

State v. Lewis, 36 S.W.3d 88, 98 (Tenn. Crim. App. 2000) (citation and internal quotation marks omitted). During the initial detention, the officers confirmed that the men lived in Monroe County, and Mr. McKenzie admitted to the officers that they had come to Blount County to purchase pseudoephedrine with the intent to resell it. The officers knew that each of the men had, in fact, purchased pseudoephedrine. In our view, this information coupled with the earlier observations established probable cause for the defendant's arrest.

Because reasonable suspicion justified the initial stop of the defendant and probable cause justified his arrest, the trial court did not err by denying the defendant's motion to suppress.

II. Cross-Examination of Mr. McKenzie

The defendant contends that the trial court erred by limiting his cross-examination of Mr. McKenzie. During the trial, the defendant wanted to cross-examine Mr. McKenzie about Mr. McKenzie's other sources of income using testimony from the preliminary hearing of Mr. McKenzie's girlfriend, who had been charged with stealing property from Mr. McKenzie's parents. Defense counsel stated that during the preliminary

hearing, a pawn shop employee testified that Mr. McKenzie pawned some of the items that his girlfriend was charged with stealing and that those were not the only items that Mr. McKenzie had pawned. The defendant claimed that this testimony could be used to impeach Mr. McKenzie's testimony that the defendant provided him with the money to purchase the pseudoephedrine. He reiterates this claim on appeal, arguing that the trial court's refusal to allow this line of questioning violated his constitutional rights. The State avers that the trial court did not err because any probative value of the evidence was outweighed by its prejudicial effect.

Prior to trial, the State asked the trial court to prohibit the defendant from asking Mr. McKenzie about his pawning property as a source of income. Apparently, defense counsel had informed the State that he might seek to use this information to impeach the witness. As a basis of his knowledge of Mr. McKenzie's conduct, defense counsel stated that he had represented Mr. McKenzie's girlfriend at a preliminary hearing on a charge that she had stolen property from Mr. McKenzie's parents. Counsel represented that Mr. McKenzie was the primary witness against his girlfriend. He also stated that a pawn shop employee had testified at the girlfriend's preliminary hearing that Mr. McKenzie had not only pawned some of the items stolen from his parents but also that Mr. McKenzie often pawned items in that same pawn shop. Counsel wanted to use the information gleaned during the unrelated preliminary hearing to impeach Mr. McKenzie's testimony that the defendant provided the money to purchase the pseudoephedrine in this case. Counsel claimed that the fact that Mr. McKenzie received money for pawning property belied his claim that he received money from the defendant. He acknowledged, however, that he did not know that Mr. McKenzie had used money from pawning stolen property to purchase the pseudoephedrine in this case. He argued that an inference could be made that because Mr. McKenzie had pawned items for money in the past he had done so in this case. The defendant also argued that the evidence was probative of Mr. McKenzie's character for truthfulness. The trial court denied the request finding that the probative value of the evidence was low, that the incident was too remote in time, that counsel had failed to "connect[] the dots between this line of questioning" and the defendant's case, and that "it could cause some unnecessary confusion."

Tennessee Rule of Evidence 608 provides, in pertinent part, as follows:

> Specific instances of conduct of a witness for the purpose of attacking or supporting the witness's character for truthfulness, other than convictions of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, if probative of truthfulness or untruthfulness and under the following conditions, be inquired into on cross-examination of

> the witness concerning the witness's character for truthfulness or untruthfulness or concerning the character for truthfulness or untruthfulness of another witness as to which the character witness being cross-examined has testified. The conditions which must be satisfied before allowing inquiry on cross-examination about such conduct probative solely of truthfulness or untruthfulness are:
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> (1) The court upon request must hold a hearing outside the jury's presence and must determine that the alleged conduct has probative value and that a reasonable factual basis exists for the inquiry;
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> (2) The conduct must have occurred no more than ten years before commencement of the action or prosecution, but evidence of a specific instance of conduct not qualifying under this paragraph (2) is admissible if the proponent gives to the adverse party sufficient advance notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence and the court determines in the interests of justice that the probative value of that evidence, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; . . .
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> . . . .
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> The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the witness's privilege against self-incrimination when examined with respect to matters which relate only to character for truthfulness.

Tenn. R. Evid. 608(b). That Mr. McKenzie pawned property that was allegedly stolen from his parents by his girlfriend was arguably probative of his character for truthfulness, but we agree with the trial court that the probative value of this evidence was very low. Moreover, although Rule 608 might have allowed the defendant to inquire of Mr. McKenzie about the incident, it would not have permitted him to utilize the prior testimony of the pawnshop employee as extrinsic proof of the incident.[3] Given the low probative value of this line of

[3]Rule 616, which permits admission of "evidence by cross-examination, extrinsic evidence, or both, (continued...)

questioning on Mr. McKenzie's character for truthfulness, any error in the trial court's ruling was unquestionably harmless.

Used as evidence that Mr. McKenzie's pawning property was a potential source of the money to purchase the pseudoephedrine in this case, proof that he had previously pawned items belonging to his parents was irrelevant. Relevant evidence is evidence "having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Tenn. R. Evid. 401. That Mr. McKenzie pawned items in the past, even items that had been stolen from his parents, had no tendency to make any fact of consequence in the defendant's trial more or less probable.

Finally, the record does not support the defendant's claim that the trial court's ruling interfered with his right to confront Mr. McKenzie. Citing *State v. Echols*, 382 S.W.3d 266 (Tenn. 2012), the defendant asserts that the failure to allow him to pursue this line of questioning with Mr. McKenzie denied him the right to conduct an effective cross-examination. In *Echols*, our supreme court reaffirmed that "[t]he propriety, scope, manner, and control of cross-examination of witnesses, however, remain within the discretion of the trial court" and that a trial court abuses its discretion only "by unreasonably restricting a defendant's right to cross-examine a witness against him." *Echols*, 382 S.W.3d at 285. In our view, the trial court did not unreasonably restrict the defendant's cross-examination of Mr. McKenzie. As discussed above, the probative value of this line of questioning with regard to Mr. McKenzie's character for truthfulness was extremely low, and the evidence was irrelevant to any other issue at the defendant's trial. *See State v. Reid*, 882 S.W.2d 423, 428 (Tenn. Crim. App. 1994) (noting in discussion of limitation of cross-examination that impeachment evidence must be "relevant and otherwise conform[] to the evidentiary rules").

III. Sufficiency

The defendant challenges the sufficiency of the convicting evidence, claiming that the trial court erred by refusing to grant a judgment of acquittal at the close of the State's proof because the State failed to establish that the defendant acquired the pseudoephedrine found in his possession knowing that it would be used to manufacture methamphetamine. He also claims that the State failed to establish that he acquired the pseudoephedrine found in Mr. McKenzie's possession and in the maroon Toyota. The State asserts that the evidence

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[3](...continued)
that a witness is biased in favor of or prejudiced against a party or another witness," is inapplicable here because the proffered evidence did not relate to Mr. McKenzie's bias in favor of or prejudice against either of the parties or any other witness. *See* Tenn. R. Evid. 616.

was sufficient to support the conviction.

A trial judge may direct a judgment of acquittal when the evidence is insufficient to warrant a conviction either at the time the State rests or at the conclusion of all the evidence. *See* Tenn. R. Crim. P. 29(a); *see generally Overturf v. State*, 571 S.W.2d 837 (Tenn. 1978). The standard by which the trial court determines a motion for judgment of acquittal at that time is, in essence, the same standard which applies on appeal in determining the sufficiency of the evidence after a conviction. *State v. Ball*, 973 S.W.2d 288, 292 (Tenn. Crim. App. 1998); *State v. Anderson*, 880 S.W.2d 720, 726 (Tenn. Crim. App. 1994). That is, whether, considering the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, *see* Tenn. R. App. P. 13(e); *Jackson v. Virginia*, 443 U.S. 307, 324 (1979), regardless whether the conviction is based upon direct evidence, circumstantial evidence, or a combination of direct and circumstantial evidence, *see State v. Dorantes*, 331 S.W.3d 370, 381 (Tenn. 2011) ("[D]irect and circumstantial evidence should be treated the same when weighing the sufficiency of such evidence."). Especially inimical to the defendant's claim is the well-rooted axiom that the appellate court neither re-weighs the evidence nor substitutes its inferences for those drawn by the trier of fact. *State v. Winters*, 137 S.W.3d 641, 655 (Tenn. Crim. App. 2003). Also, the credibility of the witnesses, the weight and value of the evidence, and all other factual issues raised by the evidence are resolved by the trier of fact. *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978). Importantly, we afford the State of Tennessee the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. *Id.*

As charged in this case, "[a] person promotes methamphetamine manufacture who . . . acquires . . . any . . . ingredient . . . that can be used to produce methamphetamine, knowing that it will be used to produce methamphetamine, or with reckless disregard of its intended use." T.C.A. § 39-17-433(a)(1).

The evidence adduced at trial established that the defendant, Mr. McKenzie, and a third individual traveled from the defendant's home in Madisonville to Blount County, passing any number of retail locations that sold medications containing pseudoephedrine. Once in Blount County, the three men purchased medication containing pseudoephedrine, a key ingredient in the manufacture of methamphetamine. Despite arriving together at a Target in Maryville, the defendant and the third individual staggered their entry into the store, apparently to give an appearance that they were not together. Inside the Target, both men purchased a single box of a medication containing pseudoephedrine. After the men returned to the car, all three traveled not to the Kroger located next to the Target but to a Kroger located across town. Along the way, they passed several other retail locations from which

they could have purchased a medication containing pseudoephedrine. At the Kroger, Mr. McKenzie purchased a single box of a medication containing pseudoephedrine. Lieutenant Nease testified that a Target employee reported that the defendant was behaving suspiciously before making his purchase, and Lieutenant Nease observed Mr. McKenzie's suspicious behavior inside the Kroger. After his arrest, Mr. McKenzie provided a statement admitting that the men had come to Blount County to purchase pseudoephedrine to sell for the manufacture of methamphetamine. He testified consistently at trial, stating that the men met at the defendant's house and that the defendant suggested the outing as a way to make money. Mr. McKenzie said that the defendant promised to pay him $40 for his "trouble." Despite the defendant's protestations regarding Mr. McKenzie's character for truthfulness, the determination of his credibility lay solely within the province of the jury. Additionally, Mr. McKenzie's testimony, that of an accomplice, was corroborated by the observations of Lieutenant Nease and the fact that officers discovered one box of Target brand medication containing pseudoephedrine in the defendant's pocket. *See State v. Little*, 402 S.W.3d 202, 212 (Tenn. 2013) ("Only slight circumstances are required to furnish the necessary corroboration" for accomplice testimony).

Conclusion

Based upon the foregoing analysis, we affirm the judgment of the trial court.

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JAMES CURWOOD WITT, JR., JUDGE