NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2010 KA 1471

STATE OF LOUISIANA

VERSUS

CEFUS JERMORE JENKINS

Judgment rendered March 25, 2011.

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Appealed from the
22nd Judicial District Court
in and for the Parish of St. Tammany, Louisiana
Trial Court No. 455682
Honorable William J. Crain, Judge

* * * * * *

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BEFORE: KUHN, PETTIGREW, AND HIGGINBOTHAM, JJ.

PETTIGREW, J.

Defendant, Cefus Jermore Jenkins, and Victoria Milner were jointly charged by bill of information with possession with intent to distribute cocaine (count 1), a violation of La. R.S. 40:967A(1), and possession with intent to distribute marijuana (count 2), a violation of La. R.S. 40:966A(1). The bill of information was later amended on count 1 as to Milner only to charge her with conspiracy to distribute cocaine, a violation of La. R.S. 14:26 and La. R.S. 40:967A(1). See also La. R.S. 40:979. She pled guilty on that charge and, at the time of defendant's trial, was awaiting sentencing.[1]

Defendant pled not guilty on both counts and, after a trial by jury, was found guilty as charged on each count. Thereafter, the state filed a habitual offender bill of information seeking to enhance his sentences pursuant to La. R.S. 15:529.1. Following a hearing, the trial court adjudicated defendant to be a fourth-felony habitual offender, and sentenced him on each count to life imprisonment at hard labor, without the benefit of parole, probation, or suspension of sentence, to be served concurrently. Defendant now appeals, raising three assignments of error. For the following reasons, we affirm the convictions, habitual offender adjudications, and sentences imposed.

FACTS

On the evening of August 27, 2008, two detectives employed in the narcotics division of the St. Tammany Parish Sheriff's Office separately received tips regarding narcotics activity by a black male known as "C" at the Grand Marchand apartment complex in St. Tammany Parish, Louisiana. Based on that information, several officers proceeded to that location. Detectives Saigeon and Church arrived at the complex first. They kept the apartment under surveillance for about ten minutes, but observed no unusual activity. Once Detective Doweling[2] and Sergeant Gaudet arrived, all of the officers met in the parking lot to jointly formulate a plan of action.

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[1] The disposition of count two against Milner is not clearly disclosed in the record.

[2] This detective's name is spelled "Downing" in the transcript of the suppression hearing and "Doweling" in the trial transcript. Although it is unclear which is correct, for the sake of consistency, we will refer to him as "Doweling" throughout this opinion.

They decided to attempt a knock-and-talk, a law enforcement technique whereby an officer knocks on the door of a house, identifies himself as a law enforcement officer, asks to talk to the occupant about a criminal complaint, and eventually requests permission to search the house. In accordance with this plan, Detectives Saigeon and Church proceeded to the rear of the apartment to keep it under surveillance. As Detective Doweling and Sergeant Gaudet approached the front door to knock on it, they saw defendant, a black male, standing in front of the apartment with a white male. The two men were shaking hands, and Detective Doweling heard the white male say "thank you" to defendant.

When Detective Doweling identified himself as a police officer, defendant responded, "oh, shit," turned around, and ran into the apartment, locking the door behind him. Defendant could be heard shouting, "it's the police, it's the police." Additionally, Detective Saigeon, who could see into the apartment through a large sliding glass door, saw defendant running through the living room, then going to the sliding glass door at the rear of the apartment and yanking it open. As defendant exited the apartment, Detective Saigeon identified himself and Detective Church as law enforcement officers. Defendant turned and ran back into the apartment, while Detective Saigeon pursued him yelling for him to stop.

Detective Saigeon followed defendant into the apartment through the door left open by defendant and tackled him to the floor in the living room. After being subdued, defendant was handcuffed and placed under arrest for resisting an officer and battery of a police officer. Detective Saigeon then searched defendant. During the search, he located and seized $560.00 in currency and a clear plastic bag containing at least twelve rocks of crack cocaine from inside defendant's right, front pocket. Three bags of marijuana were observed on the floor in the living room and were also seized by the police. Victoria Milner, who was defendant's girlfriend at that time, was inside the apartment and also was searched by a female officer. A plastic baggy containing several rocks of cocaine was found in her bra, as well as $1,165.00 in currency in her purse.

Because he complained of being injured, defendant was taken to the hospital for a checkup. He was x-rayed and released, with no injuries being found. While still at the hospital, he was advised of his **Miranda** rights and questioned by Detective Doweling. Although he initially denied doing so, he subsequently admitted that he was selling drugs. However, he refused to give any further information about his drug activities.

After being charged with the instant offenses, defendant filed a motion to suppress the physical evidence on the grounds that it was seized by the police pursuant to a warrantless search as to which none of the exceptions to the warrant requirement applied. He also filed a motion to suppress his confession on the basis that it was not free and voluntary, arguing it was obtained as a result of an unlawful arrest and without defendant being properly advised of his rights. Following a motion hearing at which Detective Doweling was the only witness, the trial court denied both motions.

ASSIGNMENT OF ERROR NUMBER ONE

In his first assignment of error, defendant argues that because the police had neither reasonable suspicion to conduct an investigatory stop nor probable cause to justify a warrantless entry into his apartment, the physical evidence seized both in the search of his person and the search of the apartment must be suppressed. Specifically, he contends there was no probable cause or exigent circumstances justifying the warrantless search and seizures since the police had observed no suspicious or illegal activity by defendant, and could not articulate any crime they believed he had committed, prior to their entry into his apartment. He maintains the tips received by the police were insufficient to provide either reasonable suspicion for an investigatory stop or probable cause for arrest because the tips were received from untested anonymous informants, who supplied no specific information identifying the alleged dealer, other than the fact that he was a black male known as "C." Defendant further argues that the alleged crimes for which he was arrested, battery of a police officer, and resisting arrest, cannot serve as justification for the warrantless entry, because they did not occur until after the police entered his apartment.

Finally, defendant contends that the fact that the police's plan included stationing two officers at the rear of his apartment suggests that they intended to enter the apartment all along, regardless of whether the knock-and-talk technique was successful. As further support of this argument, he points to Detective Doweling's testimony at the suppression hearing that the police did not attempt a controlled buy to corroborate the tips they received because there was no one available to make the buy. However, at trial, Julie Boynton, who worked in the narcotics division of the St. Tammany Parish Sheriff's Office, testified that she had made controlled buys in the past and was available to do so on the date defendant was arrested. She indicated that she did not make a controlled buy on this occasion because the officer handling the case chose not to proceed in that manner.

When the constitutionality of a warrantless search and seizure is placed at issue by a motion to suppress, the State bears the burden of proving the admissibility of evidence seized without a warrant. La. Code Crim. P. art. 703D; **State v. Warren**, 2005-2248, p. 13 (La. 2/22/07), 949 So.2d 1215, 1226. However, when a trial court denies a motion to suppress, factual and credibility determinations should not be reversed in the absence of a clear abuse of the trial court's discretion, i.e., unless such ruling is not supported by the evidence. **State v. Green**, 94-0887, p. 11 (La. 5/22/95), 655 So.2d 272, 280-281. Further, the entire record, not merely the evidence adduced at the motion to suppress, is reviewable by the appellate court in considering the correctness of a ruling on a pretrial motion to suppress. **State v. Francise**, 597 So.2d 28, 30 n.2 (La. App. 1 Cir.), writ denied, 604 So.2d 970 (La. 1992).

Absent one of the well-delineated exceptions, a warrantless search or seizure is per se unreasonable under the Fourth Amendment of the United States Constitution and Article 1, § 5 of the Louisiana Constitution. **Coolidge v. New Hampshire**, 403 U.S. 443, 454-455, 91 S.Ct. 2022, 2032, 29 L.Ed.2d 564 (1971); **Warren**, 2005-2248 at 13, 949 So.2d at 1226. One such exception to the warrant requirement allows entry into a residence when the police are in "hot pursuit" of a person they have probable cause to arrest and "exigent circumstances" are present. See **U.S. v. Santana**, 427 U.S. 38, 42-

43, 96 S.Ct. 2406, 2409-2410, 49 L.Ed.2d 300 (1976); **State v. Hathaway**, 411 So.2d 1074, 1078 (La. 1982).

At the suppression hearing in the present case, Detective Doweling testified that at approximately 10:30 p.m. on August 27, 2008, he was advised that a female citizen who had called 911 wanted to give information about narcotics activity and had left a contact number. When Doweling returned the call, the informant advised him that a black male known as "C" was distributing cocaine and marijuana from Apartment 7 at the Grand Marchand apartment complex where she lived. She also said the man had a white female with him that he kept "doped up" and was using as a sex slave and to sell drugs for him.

According to Detective Doweling, the informant's information appeared to be recent and based on personal knowledge, since she indicated she had seen the man with approximately a half ounce of crack cocaine and some marijuana that day. The informant also mentioned that the man in question had been seen armed and heard making statements about "capping" people (a term for shooting people), and that he was not going back to jail since he was a "multi-bill." Detective Doweling testified that, under these circumstances, he would have had concerns for his own safety, as well as that of the other officers, if it had been necessary to wait outside defendant's apartment while a warrant was obtained for his arrest after he ran back into his apartment.

At trial, Detective Saigeon testified that he was advised that an anonymous complaint had been received on the sheriff's office narcotics tip line regarding drug activity by a black male identified as "C" at the Grand Marchand apartments. He met with other members of the office narcotics division on August 27, 2008, and learned that Detective Doweling had also received information regarding drug activity at the same location.

Detective Saigeon indicated that after the officers arrived at the apartment complex and formulated their plan to utilize the knock-and-talk technique, he and Detective Church went to the rear of defendant's apartment. Shortly thereafter, he heard a commotion ensuing from inside the apartment. Through the sliding glass door, he could see defendant frantically running through the apartment, screaming "police," before

violently yanking open the sliding glass door. According to Detective Saigeon, it was obvious that defendant was fleeing the residence. When defendant exited the apartment, and then ignored Saigeon's command to stop, he pursued defendant back into the apartment. He explained that he did so because, given defendant's behavior in running through the apartment shouting "police," it became obvious to him that defendant was trying to flee the residence. Detective Saigeon also had concerns that defendant might be going back inside to obtain a weapon or to destroy evidence.

In denying defendant's motion to suppress evidence, the trial court found that the entry into the apartment was justified based on the circumstances and the pursuit of the fleeing defendant. Thus, the trial court apparently concluded the officers acted in good faith in entering the apartment. The trial court further concluded that the search of defendant was properly conducted incident to his arrest for the offense of resisting arrest. The seizure of the marijuana also was found to be proper under the plain view exception to the warrant requirement.

When reviewing a trial court's ruling on a motion to suppress based on findings of fact, great weight is placed on the trial court's determination because the court had the opportunity to observe the witnesses and weigh the relative credibility of their testimony. Appellate courts will not set a credibility determination aside unless it is clearly contrary to the record evidence. **State v. Peterson**, 2003-1806, p. 9 (La. App. 1 Cir. 12/31/03), 868 So.2d 786, 792, writ denied, 2004-0317 (La. 9/3/04), 882 So.2d 606. We agree with the trial court that there were exigent circumstances present, and for the following reasons, we find no error or abuse of discretion in the trial court's ruling that the search and seizures in the instant case were proper as a search incident to defendant's arrest and the plain view exception to the warrant requirement.

The two anonymous drug-related tips received by the police on the day of defendant's arrest clearly did not alone provide a sufficient basis for either reasonable suspicion or probable cause to suspect criminal activity. However, when the police arrived at the Grand Marchand apartment complex, they decided to utilize the knock-and-talk technique at defendant's apartment. The prevailing rule is that, absent a clear

expression by the owner to the contrary, police officers, in the course of their official business, are permitted to approach a dwelling and seek permission to question an occupant. **Warren**, 2005-2248 at 6, 949 So.2d at 1222. Moreover, when approached by Detective Doweling for this permissible purpose, defendant provided the police with further grounds for suspicion when he reacted with total panic and headlong flight.

A police officer may briefly stop and interrogate a person on less than probable cause, if the officer has a reasonable suspicion, supported by specific, articulable facts that the person is, or is about to be, engaged in criminal conduct. La. Code Crim. P. art. 215.1A; **State v. Lowery**, 2004-0802, p. 7 (La. App. 1 Cir. 12/17/04), 890 So.2d 711, 718, writ denied, 2005-0447 (La. 5/13/05), 902 So.2d 1018. The determination of reasonable suspicion for an investigatory stop does not rest on an individual officer's subjective beliefs, but is dependent on an objective evaluation of all the circumstances known to the police collectively. The reviewing court must take into account the totality of the circumstances, giving deference to the inferences and deductions of a trained police officer that might elude an untrained person. See **State v. Huntley**, 97-0965, pp. 1-3 (La. 3/13/98), 708 So.2d 1048, 1049 (per curiam).

While flight, nervousness, or a startled look at the sight of a police officer is, by itself, insufficient to justify an investigatory stop, this type of conduct may be highly suspicious and, therefore, may be one of the factors leading to a finding of reasonable suspicion for an investigatory stop. **State v. Scott**, 561 So.2d 170, 173-174 (La. App. 1 Cir.), writ denied, 566 So.2d 394 (La. 1990). The United States Supreme Court has recognized that while a person approached by an officer without reasonable suspicion or probable cause has a right to ignore the police and go about his business, flight constitutes more than a mere refusal to cooperate. In **Illinois v. Wardlow**, 528 U.S. 119, 124, 120 S.Ct. 673, 676, 145 L.Ed.2d 570 (2000), the Supreme Court stated: "Headlong flight-wherever it occurs-is the consummate act of evasion: It is not necessarily indicative of wrongdoing, but it is certainly suggestive of such." Thus, the Supreme Court held in **Wardlow** that "[a]llowing officers confronted with such flight to stop the fugitive and investigate further is quite consistent with the individual's right to go

about his business or to stay put and remain silent in the face of police questioning." **Wardlow**, 528 U.S. at 125, 120 S.Ct. at 676. In view of its highly suspicious nature, flight from a police officer greatly lessens the amount of additional information needed in order to provide police officers with reasonable suspicion that a person is engaged in criminal conduct. **State v. Benjamin**, 97-3065, p. 3 (La. 12/1/98), 722 So.2d 988, 989.

The record herein reflects that immediately upon Detective Doweling identifying himself as a police officer, defendant uttered an expletive and ran inside his apartment, slamming, and locking the door. From inside the apartment, defendant could be heard shouting "it's the police." The officers at the rear of the apartment heard a commotion and observed defendant frantically running through the apartment, before he rushed to the rear sliding door and violently jerked it open. When the officer standing outside identified himself, defendant rushed back into the apartment, ignoring the officer's shouts to stop.

At this point, considering defendant's headlong flight at the approach of the police officers, together with the tips received by the police earlier that day, Detective Saigeon had sufficient information to form a reasonable suspicion, based on specific, articulable facts, that defendant had committed or was about to commit a criminal offense. See **State v. Alvarez**, 2009-0328, pp. 3-4 (La. 3/16/10), 31 So.3d 1022, 1023-1024 (per curiam) (police officers had reasonable suspicion for investigatory stop when the defendant, who had demonstrated furtive behavior while observing police officers, balked at their request that he come over to them, then ran when the officers approached him); **Benjamin**, 97-3065 at 3, 722 So.2d at 989 (the defendant running away when he saw a marked police unit, while holding his waistband as if he were supporting a weapon or contraband, provided reasonable suspicion for an investigatory stop). Under the circumstances present, Detective Saigeon was lawfully entitled to briefly detain defendant under the authority of La. Code Crim. P. art. 215.1A for the purpose of investigating his suspicious behavior.

Therefore, when defendant ignored Detective Saigeon's command to stop and fled back into the apartment, he committed the offense of resisting an officer. Louisiana Revised Statute 14:108A provides, in pertinent part, that:

> Resisting an officer is the intentional interference with, opposition or resistance to, or obstruction of an individual acting in his official capacity and authorized by law to make a ... lawful detention ... when the offender knows or has reason to know that the person ... detaining ... is acting in his official capacity.

Under the clear language of this provision, it is a criminal offense for a person being lawfully detained by an officer to resist that detention. Moreover, probable cause to arrest exists when the facts and circumstances within a police officer's knowledge, and of which he has reasonable and trustworthy information, are sufficient to justify a person of average caution in the belief that the accused has committed a crime. Further, while mere suspicion is insufficient to justify an arrest, a police officer need not have sufficient proof to convict in order to arrest. **State v. Wells**, 2008-2262, p. 8 (La. 7/6/10), 45 So.3d 577, 582-583.

In **State v. Daniels**, 25,833 (La. App. 2 Cir. 3/30/94), 634 So.2d 962, the defendant was suspected of selling cocaine and was stopped by the police. He refused an officer's request that he remove his hand from his pants pocket and started walking away. Concerned that he might be concealing a weapon, the officer attempted to extract the defendant's hand from his pocket. In response, the defendant jerked his arm away and continued walking, despite an order to remain. **Daniels**, 25,833 at 5, 634 So.2d at 965. The defendant was found guilty of resisting arrest under La. R.S. 14:108. *Id.*, 25,833 at 2 n.1, 634 So.2d at 963 n.1.

Likewise, in the instant case, Detective Saigeon was acting in his official capacity when he ordered defendant to stop so that he could be questioned as to his suspicious behavior. As previously noted, Detective Saigeon had reasonable suspicion to make such an investigatory stop. Accordingly, when defendant refused to comply with Detective Saigeon's command to stop, thwarting his attempt to investigate further, defendant committed the criminal offense of resisting arrest. Under La. Code Crim. P. art. 213(1), a police officer may, without a warrant, arrest a person who has committed an offense in

his presence. Accordingly, the police had probable cause to arrest defendant prior to the time they pursued him into his apartment. Moreover, we believe exigent circumstances also were present, justifying the warrantless entry by the police in hot pursuit of defendant.

Exigent circumstances are exceptional circumstances that, when coupled with probable cause, justify an entry into a "protected" area that, without those exceptional circumstances, would be unlawful. Examples of exigent circumstances include the escape of the defendant, avoidance of a possible violent confrontation, and the destruction of evidence. **Hathaway**, 411 So.2d at 1079.

In the instant case, the police had received information from an informant that defendant had been seen with a gun and was heard threatening to "cap" people and proclaiming he was not going back to jail. The information received by the police also indicated defendant might be involved in drug dealing, and it is common knowledge that "[g]uns and drugs frequently go hand-in-hand." See **Warren**, 2005-2248 at 18, 949 So.2d at 1229. When these factors are considered in light of defendant's panicked behavior, it is clear the police had a legitimate concern for their own safety and to avoid a possible violent confrontation. There was also a possibility that defendant might attempt to destroy evidence. Further, even though the crime of resisting arrest is a misdemeanor offense, it is a jailable offense and by its nature involves a risk to police officers, particularly where the person to be arrested has declared he is not going back to jail. See **Alvarez**, 2009-0328 at 4, 31 So.3d at 1024.

Given these exigent circumstances, we find that the officers' warrantless entry into defendant's apartment in hot pursuit to effectuate his arrest was reasonable. Moreover, once defendant was arrested, the search of his person incident to that arrest was justified as a well-established exception to the warrant requirement. **Chimel v. California**, 395 U.S. 752, 762-763, 89 S.Ct. 2034, 2040, 23 L.Ed.2d 685 (1969); **Warren**, 2005-2248 at 14-16, 949 So.2d 1226-1227.

With regard to the seizure of the marijuana, we agree with the trial court that it was properly seized by the police under the plain view doctrine, an exception to the

requirement of a search warrant. In order for this doctrine to be applicable: (1) there must be a prior justification for an intrusion into the protected area; and (2) it must be immediately apparent without close inspection that the items are evidence or contraband. "Immediately apparent" requires no more than probable cause to associate the property with criminal activity. **State v. Young**, 2006-0234, p. 6 (La. App. 1 Cir. 9/15/06), 943 So.2d 1118, 1122-1123, writ denied, 2006-2488 (La. 5/4/07), 956 So.2d 606.

As previously discussed, the police had prior justification to intrude into defendant's apartment in order to effectuate his arrest. Further, the three bags of marijuana were lying in plain view on the floor near the rear door where the police first entered into the apartment. Since the officers were all members of the narcotics division, it was immediately apparent to them that the bags contained contraband associated with criminal activity. Thus, the seizure of the suspected marijuana was proper. This assignment of error is without merit.

ASSIGNMENT OF ERROR NUMBER TWO

In his second assignment of error, defendant states that since his inculpatory statement was made as a direct result of police questioning immediately following his illegal arrest, the statement must be suppressed as "fruit of the poisonous tree."

Defendant admits in brief that he was properly advised of his **Miranda** rights prior to giving the statement in question. His entire argument in this assignment of error is premised on the contention that since his arrest was illegal, the statement the police obtained from him as a result of that arrest was likewise illegally obtained. Defendant asserts no other basis for suppression of his inculpatory statement. Thus, since we have concluded herein that defendant's warrantless arrest was proper, we reject this argument. This assignment of error lacks merit.

ASSIGNMENT OF ERROR NUMBER THREE

In his third assignment of error, defendant contends that the trial court erred in denying his motion for post-verdict judgment of acquittal. Specifically, he argues the verdicts were not supported by evidence sufficient to prove beyond a reasonable doubt that he intended to distribute the cocaine and/or marijuana seized by the police.

According to defendant, the State's evidence was at most sufficient only to prove possession of these controlled substances.

The standard of review for the sufficiency of the evidence to uphold a conviction is whether, viewing 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 La. Code Crim. P. art. 821B; **State v. Ordodi**, 2006-0207, p. 10 (La. 11/29/06), 946 So.2d 654, 660. The **Jackson v. Virginia**, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979), standard of review incorporated in La. Code Crim. P. art. 821 is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. When analyzing circumstantial evidence, La. R.S. 15:438 provides that the fact finder must be satisfied the overall evidence excludes every reasonable hypothesis of innocence. **State v. Patorno**, 2001-2585, p. 5 (La. App. 1 Cir. 6/21/02), 822 So.2d 141, 144.

In the present case, to support the convictions for the charged offenses, the State had to prove beyond a reasonable doubt as to each count that defendant: (1) possessed the controlled dangerous substance in question; and (2) had the intent to distribute the controlled dangerous substance. See La. R.S. 40:967A(1); La. R.S. 40:966A(1); **State v. Smith**, 2003-0917, p. 5 (La. App. 1 Cir. 12/31/03), 868 So.2d 794, 799.

Defendant argues that the only evidence presented by the State to establish any intent to distribute the seized cocaine and marijuana was the testimony of his former girlfriend, Victoria Milner, who admitted at trial that both she and defendant were drug dealers. She also testified that the white male the police saw with defendant in front of the apartment was a customer who had purchased a rock of crack cocaine just prior to the arrival of the police.[3] Defendant contends Milner's testimony is not credible, since she reached a plea bargain with the State in exchange for her testimony.

[3] The police searched this individual, but found no drugs. However, Milner testified that she saw the man place the rock of crack cocaine in his mouth after purchasing it.

At trial, Milner indicated that in exchange for her agreement to testify truthfully at defendant's trial, the State amended the original charge against her of possession with intent to distribute cocaine to a charge of conspiracy to distribute cocaine. However, the written plea agreement with the State specifically provided that the agreement was not dependent on the outcome of any trial. In any event, the amendment of the charge did reduce Milner's maximum penalty exposure to one-half of what it would have been for a conviction on the original charge. See La. R.S. 40:967B(4)(b) & 40:979A. See also La. R.S. 14:26C. On this basis, defendant argues Milner had a good reason to give testimony favorable to the State's position. He further suggests her credibility was questionable because, while she claimed to have witnessed defendant cook cocaine powder into crack in a coffeepot, she could not elaborate on the process he utilized and, apparently, no such coffeepot was found by the police.

In support of his contention that the drugs seized by the police could have been for his personal consumption, defendant points out that the rocks of cocaine were not individually wrapped. He also alleges there was a difference of opinion between Detectives Saigeon and Boynton as to the amount of cocaine that typically was kept for personal consumption. He suggests the amounts seized were consistent with personal consumption.

The jury heard the testimony of all of the witnesses at trial, including testimony about the details of Milner's plea agreement with the State. The credibility of Milner and the other witnesses undoubtedly was a factor considered by the jury in arriving at the instant verdicts. The jury is free to accept or reject, in whole or in part, the testimony of any witness. Moreover, the jury's determination of the weight to be given evidence is not subject to appellate review. An appellate court will not assess the credibility of witnesses or reweigh the evidence to overturn a jury's determination of guilt. **State v. Lofton**, 96-1429, p. 5 (La. App. 1 Cir 3/27/97), 691 So.2d 1365, 1368, writ denied, 97-1124 (La. 10/17/97), 701 So.2d 1331. We are constitutionally precluded from acting as a "thirteenth juror" in assessing what weight to give evidence in criminal cases. See **State v. Mitchell**, 99-3342, p. 8 (La. 10/17/00), 772 So.2d 78, 83.

In any event, we note that defendant's contention that Milner's testimony provided the only evidence presented by the State to establish intent to distribute is incorrect. This argument blatantly ignores the fact that defendant admitted to Detective Doweling shortly after his arrest that he was selling drugs. That evidence, standing alone, is sufficient to establish the essential element of intent to distribute with respect to the instant offenses.

Thus, after a thorough review of the record, we find that the evidence supports the guilty verdicts. We are convinced that viewing all of the evidence in the light most favorable to the State, any rational trier-of-fact could have found beyond a reasonable doubt, and to the exclusion of every reasonable hypothesis of innocence, that every essential element of the crimes of possession of cocaine with intent to distribute and possession of marijuana with intent to distribute was established by the State. The guilty verdicts returned in this case indicate the jury accepted the testimony, including that of Milner and defendant himself, indicating that defendant knowingly possessed the cocaine and marijuana with the intent to distribute. Moreover, to the extent that circumstantial evidence was involved herein, where the jury reasonably rejects the hypothesis of innocence presented by the defense, that hypothesis falls, and the defendant is guilty unless there is another hypothesis that raises a reasonable doubt. **State v. Moten**, 510 So.2d 55, 61 (La. App. 1 Cir.), writ denied, 514 So.2d 126 (La. 1987). In reviewing the evidence, we cannot say that the jury's determination was irrational under the facts and circumstances presented to it. Accordingly, the trial court did not err in denying defendant's motion for post-verdict judgment of acquittal. See La. Code Crim. P. art 821B. This assignment of error is without merit.

CONVICTIONS, HABITUAL OFFENDER ADJUDICATIONS, AND SENTENCES AFFIRMED.