

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2007 KA 0530

JRW  
[Signature]  
JRW.

STATE OF LOUISIANA

VERSUS

RICKY BRUCE

Judgment Rendered: September 14, 2007

\* \* \* \* \*

Appealed from the  
Seventeenth Judicial District Court  
In and for the Parish of Lafourche, Louisiana  
Trial Court Number 430,905

Honorable F. Hugh Larose, Judge

\* \* \* \* \*

Camille A. Morvant, II, District Attorney  
Peter J. Rouse, Assistant District Attorney  
Thibodaux, LA

Attorney for  
State – Appellee

Holli Herrle-Castillo  
Marrero, LA

Attorney for  
Defendant – Appellant  
Ricky Bruce

\* \* \* \* \*

BEFORE: CARTER, C.J., PETTIGREW, AND WELCH, JJ.

WELCH, J.

The defendant, Ricky Bruce, was charged by bill of information with one count of distribution of cocaine, a violation of La. R.S. 40:967(A)(1). The defendant pled not guilty and was tried before a jury. The jury determined the defendant was guilty as charged. The trial court sentenced the defendant to a term of twenty years at hard labor.

After considering the issue raised by the defendant, we affirm his conviction and sentence.

### **FACTS**

On May 11, 2005, Deputy Calvin Rodrigue, of the Terrebonne Parish Sheriff's Office, was working as an undercover agent with the Lafourche Parish Drug Task Force. Agent John Champagne of the Lafourche Parish Drug Task Force had learned from a confidential informant (CI) that illegal narcotics could be purchased from the defendant in the area of East 23<sup>rd</sup> Street in Larose. The East 23<sup>rd</sup> Street area was considered a high drug-traffic area. Agent Champagne wired a vehicle with cameras and audio and video-surveillance equipment so the transactions that Deputy Rodrigue and the CI conducted would be recorded. Prior to leaving to meet with the drug-trafficking contacts, Agent Champagne frisked the CI for weapons or contraband.

Deputy Rodrigue and the CI departed for East 23<sup>rd</sup> Street around 9:30 p.m. According to Deputy Rodrigue, he suspected the CI had contacted the defendant sometime earlier that evening. As they approached East 23<sup>rd</sup> Street, Deputy Rodrigue's phone rang, and the CI answered it and stated, "Hey. We're here. We're turning." Immediately after this call, the defendant was seen walking down the street towards the undercover vehicle. The CI pointed the defendant out and said, "That's him."

As the defendant approached the vehicle, Deputy Rodrigue said, "Hey.

What's up?" but the defendant kept walking past the driver's side of the vehicle and went around to the passenger's side where the CI sat. The defendant spoke to the CI and obtained a cigarette from the CI. Deputy Rodrigue started to exit the vehicle with the CI, but the defendant stated that he "don't get down like that." Deputy Rodrigue, being experienced in undercover narcotics work, knew that the defendant did not want him to get out of the truck since he was not familiar with him. Deputy Rodrigue gave the CI \$40.00 in cash. Deputy Rodrigue remained in the truck and was able to observe the transaction between the CI and the defendant through the rearview mirror.

Using the rearview mirror, Deputy Rodrigue observed the CI and the defendant walk to the rear of the vehicle and the CI hand the defendant the cash. The defendant then handed the CI the narcotics. The CI then returned to the vehicle and turned over the narcotics, two rocks of crack cocaine, to Deputy Rodrigue. Deputy Rodrigue secured the narcotics in the cup holder of the vehicle, then met Agent Champagne at a location about five minutes from the scene of the transaction.

Agent Champagne secured the two rocks of crack cocaine and obtained the recordings from the cameras in the vehicle. Subsequent testing confirmed these two rocks contained cocaine and weighed .033 grams. Because of ongoing undercover operations in the East 23<sup>rd</sup> Street area, the defendant was not arrested that night, but was arrested several months later.

The defendant did not testify at trial.

### **SUFFICIENCY OF THE EVIDENCE**

In his sole assignment of error, the defendant argues the evidence is insufficient to support his conviction for distribution of cocaine. Specifically, the defendant argues that the videotape introduced only shows the defendant speaking to the CI then walking away from the vehicle. The defendant contends the

videotape fails to show any drug transaction. Further, the defendant claims there are inconsistencies between the testimony of Deputy Rodrigue and Agent Champagne regarding where the transaction occurred and whether there were any other people in the vicinity during this transaction.

The standard of review for testing 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 conclude that the State proved the essential elements of the crime, and the defendant's identity as the perpetrator, beyond a reasonable doubt. La. C.Cr.P. art. 821. The **Jackson v. Virginia**, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979), standard of review incorporated into Article 821 of the Louisiana Code of Criminal Procedure is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. **State v. Davis**, 2000-2685, pp. 3-4 (La. App. 1<sup>st</sup> Cir. 11/9/01), 818 So.2d 76, 78-79.

Agent Champagne testified that the CI was searched for weapons or contraband prior to leaving with Deputy Rodrigue. Deputy Rodrigue testified that although he remained in the vehicle, he was able to observe the drug transaction occur between the CI and the defendant. According to Deputy Rodrigue, he was able to see the CI at all times and witnessed the exchange of money and drugs between the CI and the defendant. In court, Deputy Rodrigue identified the defendant as the person who sold drugs to the CI on the date of this incident. Moreover, we note in the defendant's brief, he admits that he was present at the scene.

Agent Champagne, an experienced narcotics officer, testified that it is not unusual for narcotics traffickers to refuse to conduct a transaction through the window of a vehicle because they are aware that undercover police vehicles are commonly equipped with surveillance cameras.

This matter was tried before a jury. As the trier of fact, the jury is free to accept or reject, in whole or in part, the testimony of any witness. The appellate court will not assess the credibility of witnesses or the relative weight of the evidence to overturn the determination of guilt by the fact finder. In the absence of internal contradiction or irreconcilable conflict with physical evidence, one witness's testimony, if believed by the trier of fact, is sufficient support for a requisite factual conclusion. **Davis**, 2000-2685 at p. 6, 818 So.2d at 80.

The jury was aware that Deputy Rodrigue testified that this transaction occurred in a parking lot of a church while no one else was around. The jury also heard testimony from Agent Champagne where he agreed with the prosecutor's statement that this transaction occurred at a "school or something." Agent Champagne also testified that there had been hundreds of arrests in this area because of the high rate of drug traffic.

The jury was obviously aware that Agent Champagne was not physically present at the scene when the transaction occurred. Thus, they obviously felt the discrepancy regarding location was not a fact that would create reasonable doubt regarding the defendant's guilt of this offense. Moreover, the fact Deputy Rodrigue testified that there was no one else around does not contradict Agent Champagne's testimony that there had been hundreds of drug arrests in this vicinity. The jury was aware that Agent Champagne was obviously testifying to the history of the area, and found it reasonable that there would be a time and place in this high drug-traffic area when no one would be around at the time of one specific transaction occurring at 9:30 p.m.

Viewing the evidence in the light most favorable to the prosecution, we find the State presented uncontroverted eyewitness testimony to the transaction. The State sufficiently proved that the defendant was guilty of distribution of cocaine. Accordingly, this assignment of error is without merit.

## **REVIEW FOR ERROR**

The defendant asks that this court examine the record for error under La. C.Cr.P. art. 920(2). This court routinely reviews the record for such errors, whether or not the defendant makes such a request. Under La. C.Cr.P. art. 920(2), we are limited in our review to errors discoverable by a mere inspection of the pleadings and proceedings without inspection of the evidence. After a careful review of the record in these proceedings, we have found no reversible errors. See State v. Price, 2005-2514, pp. 18-22 (La. App. 1<sup>st</sup> Cir. 12/28/06), 952 So.2d 112, 123-125 (en banc).

## **CONCLUSION**

For the foregoing reasons, the defendant's conviction and sentence are affirmed.

**CONVICTION AND SENTENCE AFFIRMED.**