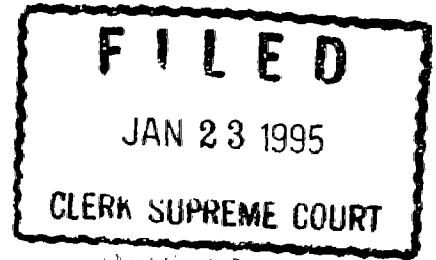


IN THE COURT OF APPEALS OF IOWA

No. 4-507 / 93-1851



STATE OF IOWA,

Plaintiff-Appellee,

vs.

RICHARD PARKER, a/k/a
RICHARD CLARKE,

Defendant-Appellant.

Appeal from the Iowa District Court for Dubuque County,
Alan L. Pearson, Judge.

Richard Parker appeals his convictions of delivery of cocaine and delivery of cocaine within 1000 feet of a secondary school, both as an habitual offender, in violation of Iowa Code sections 204.401(1)(c), 204.401A and 902.8 (1991). **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Rachele Braverman Hjelmås and James G. Tomka, Assistant State Appellate Defenders, for appellant.

Bonnie J. Campbell, Attorney General, Thomas S. Tauber and Sheryl A. Soich, Assistant Attorneys General, Fred H. McCaw, County Attorney, and Timothy Gallagher, Assistant County Attorney, for appellee.

Heard by Donielson, C.J., and Sackett and Cady, JJ.

SACKETT, J.

Defendant-appellant Richard Parker appeals his convictions of delivery of cocaine and delivery of cocaine within 1000 feet of a secondary school, both as a habitual offender, in violation of Iowa Code sections 204.401(1)(c), 204.401A, and 902.8 (1991).

Defendant was convicted primarily on the testimony of Bobbie Redfield. Redfield, a known drug user, was asked by the Dubuque Drug Task Force to purchase cocaine from defendant. At trial, Redfield testified he called defendant from the task force office and, when asked if defendant could get him a gram of coke, defendant said, "yeah." Redfield was given a body transmitter and money and searched before leaving the task force office. Redfield went home and defendant met him there about ten minutes later. Redfield asked defendant if he could get "it," and defendant said, "yeah" and took Redfield's money and left. Defendant came back later with another person and told Redfield to come with them to get the cocaine. Near an apartment house across the street from Hempstead High School, defendant got out of the (his) car and went in the apartment complex with a man who had been outside. Redfield said defendant returned a couple of minutes later and gave him rocks of crack cocaine. Defendant dropped Redfield off at his house and told defendant if he knew of other available cocaine to let him know. Redfield said he then walked to meet the officers and gave them the drugs and the transmitter and wrote a report.

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Redfield also testified defendant came by his house later the same day and said he could get Redfield something and Redfield contacted the drug task force and they again gave him a transmitter. Defendant and Tyrone came to Redfield's home in a car and asked him how much he wanted and if he wanted ready or raw. Redfield told defendant he had to get money and arranged to meet him. Redfield got the money from the officers and went to wait at the designated stop for defendant. When defendant's car drove up, Redfield handed defendant the money and a person sitting in the back seat handed defendant the rock which he handed Redfield. Redfield said he again met with the officers and gave them the drugs and the transmitter and wrote a report.

Defendant contends there was not sufficient evidence to support a finding beyond a reasonable doubt he had committed the crimes to which he was found guilty. Defendant moved for a judgment of acquittal at the close of the State's case and at the close of all the evidence. The motion was denied. Error on this issue was preserved. State v. Holderness, 293 N.W.2d 226, 230 (Iowa 1980). In deciding whether the evidence is sufficient to support the conviction, the inquiry is whether, in viewing the evidence in the light most favorable to the state, any rational trier of fact could have found beyond a reasonable doubt defendant committed each and every element of the crime. See Jackson v. Virginia, 443 U.S. 307, 318-19, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560, 575 (1979).

Defendant was charged with two separate counts of delivery on two different dates.

Defendant advances the State relied heavily on the testimony of Redfield, a known drug user, who was discredited in part on cross-examination. Redfield admitted at the time of the transactions he was a heavy cocaine user and he used the money the drug task force gave him for his work to buy more drugs. Defendant contends, while normally it is for the jury to determine the credibility of a witness, Redfield's testimony was so contradicted it should be considered a nullity by the court. See State v. Smith, 508 N.W.2d 101, 103 (Iowa App. 1993).

Defendant further argues the officers who watched Redfield when both transactions took place were confused on certain particulars, had difficulty monitoring the conversations, and were not able to see money change hands and did not see anything given to Redfield at the time of the second transaction. Defendant also points out there were times when Redfield was in his house or another building where he could have obtained the drugs. The tapes made through the transmitter were of poor quality.

We agree there are inconsistencies in Redfield's testimony. However; defendant points to no specific inconsistencies and we find none that would require the court to nullify Redfield's testimony. The evidence, if believed by the jury, was sufficient to convict defendant.

Defendant next contends there was not sufficient evidence to support the finding he was guilty of aiding and abetting in the second transaction. There was evidence the cocaine was handed from the passenger to defendant to Redfield. Because defendant transferred the cocaine to Redfield, he delivered it and did not merely aid or abet the delivery. See State v. Zaruba, 306 N.W.2d 772, 774 (Iowa 1981).

We affirm.

AFFIRMED.