IN THE COURT OF APPEALS OF IOWA

No. 1-208 / 90-959

FILED
JUN 25 1991
CLERK SUPREME COURT
332

STATE OF IOWA,

Plaintiff-Appellee,

vs.

DENNIS JAMES KECK,

Defendant-Appellant.

Appeal from the Iowa District Court for Muscatine County, Jack L. Burns, Judge.

Defendant appeals his convictions, following a jury trial, for two counts of conspiracy to deliver cocaine. He challenges the sufficiency of the evidence to support the convictions. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Ahmet S. Gonlubol, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Amy M. Anderson, Assistant Attorney General, and Stephen J. Petersen, County Attorney, for appellee.

Considered by Hayden, P.J., and Sackett and Habhab, JJ.

PER CURIAM

Defendant-appellant Dennis James Keck appeals following his convictions of two counts of conspiracy to deliver cocaine. He contends there was not sufficient evidence to prove him guilty.

When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence in the record. State v. Wheeler, 403 N.W.2d 58, 60 (Iowa App. 1987). Substantial evidence means evidence which would convince a rational fact finder that the defendant is guilty beyond a reasonable doubt. State v. Hall, 371 N.W.2d 187, 188 (Iowa App. 1985).

Kenneth Sandy, a special agent with the Iowa division of Criminal Investigation, testified as to his purchase of drugs in Muscatine, Iowa on February 8, 1989. The purchase involved a rather complicated scheme where the agent was in contact with several persons, including the defendant and his brother Dennis Keck. The defendant does not deny he was a part of the group at certain times on the night of the purchase. He contends he only went along to get some drugs to go on a high rather than to participate in the sale.

There is evidence defendant knew the agent was looking for a buy, that defendant went with the others to buy cocaine, that during a wait defendant assured the agent his

brother would not take the agent's money unless the agent got the drugs. The defendant also did some of the driving and talked to the agent about setting up future deals.

The defendant was convicted under section 204.401(1), which provides:

> Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, or a simulated controlled substance. * * *

The jury was presented with two alternative means of drug trafficking, delivery or conspiracy to deliver. The jury found defendant guilty of two counts of conspiracy to deliver cocaine. They believed the defendant and his brother were in business together. We affirm.

AFFIRMED.