FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed April 30, 1985
vs.	)	5-66 84-1051
TONY LYNN CORMENY,	)	
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Page County, Glen M. McGee, Judge.

Defendant attacks the sufficiency of evidence to warrant his conviction of sale of a controlled substance. AFFIRMED.

Gary K. Anderson of Anderson & Wheeler, Council Bluffs, for defendant-appellant.

Thomas J. Miller, Attorney General, and Steven K. Hansen, Assistant Attorney General, for plaintiff-appellee.

Heard by Oxberger, C.J., Hayden, and Schlegel, JJ.

OXBERGER, C.J.

The defendant challenges the sufficiency of the evidence to convict him of violation of Iowa Code section 204.401(1)(b)(1983), delivery of a controlled substance. We affirm.

According to the testimony of a police informant, police instructed informant to make a purchase of LSD. The police informant entered an apartment and requested ten "hits" of the drug from an individual. This individual stated that he only had five hits available and asked for five more from the defendant. The defendant, Tony Cormeny, took five hits of LSD from a bag and placed them onto a piece of cellophane. The other individual placed five hits into a plastic bag. Cormeny then allegedly threatened the informant not to turn him into the police, saying he would break his knees if he did. After the drug sale, the informant drove to the police station and mistakenly told the police officer that the plastic bag containing LSD came from Cormeny and the cellophane package came from the other individual. He says he was confused because he was worried and nervous about defendant's statements.

The informant admitted that he had been previously convicted on forgery charges and on an escape charge. He also conceded that in exchange for his cooperation, the police would pay him $100 for each arrest and assist him in his request for a pardon. The informant further revealed that he had previously purchased LSD from the other individual at the apartment but had never spoken to the defendant.

Police officers testified that they searched the informant and followed him to the location of the drug sale. They stated that they observed the informant enter and leave the apartment building, and searched him again after the buy.

The defendant testified that he was on a weekend furlough from the Riverview Relief Center. Cormeny claimed that he did not speak with the informant at the apartment, and he denied that he possessed or assisted in the sale of any LSD.

At the close of State's evidence, the defendant moved for a judgment of acquittal on the ground that the State presented insufficient evidence to sustain a conviction in the case. The court overruled this motion.

Both the State and defendant agree regarding the limits upon our review of this case. We must look at the evidence in the light most favorable to the State and determine if there is substantial evidence in the record to support the verdict. State v. Craney, 347 N.W.2d 668, 680 (Iowa 1984). Only if there is no substantial evidence warranting the verdict, or if the finding is clearly against the weight of the evidence, will this court reverse the trial court. Id.

Defendant claims here the evidence supporting the verdict is highly suspicious since the State relies on the testimony of a convicted felon. The informant's testimony is especially suspect, defendant says, since he was to be paid for each arrest, and the more arrests obtained the more he would be paid.

We agree that testimony from an informant is highly suspect where the informant is paid by the number of arrests made. The issue involved here, however, boils down to the credibility of witnesses. The court apparently determined the informant's story was more credible than that of the defendant. The court as fact finder has the opportunity to observe the demeanor of the witnesses. State v. Taylor, 287 N.W.2d 576, 577 (Iowa 1980). The fact finder may accept or reject testimony of witnesses as it sees fit. State v. Wedelstedt, 265 N.W.2d 626, (Iowa), cert. denied, 439 U.S. 954, 99 S. Ct. 352,58 L.Ed.2d 345 (1978). Our courts have stated that prosecutorial favors are among the factors affecting the credibility of a witness, but which do not relate to the admissibility or compentency of that witness's testimony. State v. DeWitt, 286 N.W.2d 379, 385 (Iowa 1979), cert. denied, 449 U.S. 844, 101 S. Ct. 127, 66 L. Ed. 2d 53 (1980).

We find that it was up to the fact finder, the trial court, to determine the credibility of the witnesses who testified before it. Based on this and a review of the record, we find the verdict supported by adequate evidence.

AFFIRMED.