FILED
JAN 25 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Appellee,) Filed January 25, 1979
vs.) 755
JOHN A. JETTER,) 60908
Appellant.)

Appeal from Jackson District Court - Nathan Grant, Judge.

Appeal by defendant from conviction of the crime of delivery of a controlled substance alleging error in the admission of opinion testimony on the street price of marijuana. - Affirmed.

Doren Shifley, of Shifley & Mullen, Davenport, for Appellant.

Thomas J. Miller, Attorney General of Iowa, Kermit L. Dunahoo, Assistant Attorney General, and G. Wylie Pillers, III, Clinton County Attorney, for Appellee.

Submitted to Oxberger, C. J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant John A. Jetter appeals his conviction by jury of the crime of delivery of a controlled substance to wit: marijuana, in violation of § 204.401(1)(b), The Code, and not as an accommodation. On appeal, defendant alleges the trial court erred in overruling his objection to the admission of opinion testimony by a prosecution witness based upon lack of proper foundation. We affirm.

In Ganrud v. Smith, 206 N.W.2d 311, 314 (Iowa 1973), our supreme court stated:

> Opinion testimony will be allowed if it is of a nature that will aid the jury in determining the case and is based upon some special training, experience or knowledge of the witness in respect to the matter under investigation. (cases cited)
>
> Expert testimony is not admissible unless the witness is shown to be qualified and the facts upon which he bases his opinion are sufficient to enable a witness so qualified to express an opinion which is more than a mere conjecture. (cases cited). It is not enough that a witness be generally qualified in a certain area, he must also be qualified to answer the particular question propounded.
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> The receipt of opinion evidence, lay or expert, rests largely in the sound discretion of the trial courts and we will not reverse its ruling absent manifest abuse of that discretion to the prejudice of the complaining party. (cases cited).
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> We are committed to a liberal rule on the admission of opinion testimony. (cases cited).

In the instant case, defendant argues that Ernest Batty, Jr., a special agent with the Iowa Division of Narcotics and Drug Enforcement, was erroneously allowed to testify over defendant's objection to the "street price" of marijuana. Defendant objected on the grounds that a proper foundation had not been laid as to Batty's knowledge as to the particular sales made in Clinton County, Iowa, that there was no evidence that he had ever purchased marijuana in the amounts in question and that the State was dealing in generalities in attempting to lay the required foundation. In overruling defendant's objection, the trial court stated Batty shows himself capable from experience as a narcotics purchaser in his official capacity.

Initially, we note that under the guidelines set forth in Ganrud v. Smith, opinion testimony is permissible on the issue of the "street price" of marijuana because it is of the nature that it will aid the jury in determining an important issue in the case; in this case, whether the delivery was for profit or for accommodation. The issue then becomes whether the witness has some special training, experience or knowledge with

respect to the matter under investigation. Ganrud, supra at 314.

The evidence shows that Batty had special college training in criminology. It was also established that he worked in undercover narcotics enforcement for over two years. Batty estimated he had made 150 drug related arrests, mostly the result of undercover work. He stated he had purchased marijuana in various quantities from ounces to pounds and that in several cases where ounce quantities were sold, it was at the same price but in different locations. Batty stated he had bought marijuana in both Central and Eastern Iowa and that the prices were comparable. Finally, to protect his cover, Batty stated he had regular discussions with other law enforcement officers on the market prices of the drug, somewhere on the average of four times a week.

We find that Agent Batty was properly qualified to express the opinion requested. Batty had special training, experience and knowledge with respect to the matter under investigation. See State v. Boyd, 224 N.W.2d 609, 613 (Iowa 1974); State v. Lynch, 197 N.W.2d 186, 190 (Iowa 1972). He was shown not only to be generally qualified in the area, but qualified to answer the particular question propounded. See State v. Burrell, 255 N.W.2d 119, 123 (Iowa 1977). The facts upon which Batty based his opinion were sufficient to enable him to express an opinion which was more than a mere conjecture. We find no abuse of discretion. Ganrud, supra.

Defendant also argues that by allowing Batty to express an opinion based on having purchased marijuana an unstated number of times, mainly in other localities, he was allowed to state an opinion on the basis of what he had heard from others. Defendant cites Wolf v. Murrane, 199 N.W.2d 90 (Iowa 1972), for the proposition that it is error to admit opinion testimony when based on hearsay.

First, the hearsay issue was never raised at trial and this court will not consider matters raised for the first time on appeal. State v. Washington, 257 N.W.2d 890, 895 (Iowa 1977). Every ground of exception which is not specifically stated is to be considered abandoned. Washington, supra; State v. Droste, 232 N.W.2d 483, 487 (Iowa 1975). Secondly, the foundation laid for Batty's testimony was sufficient without the knowledge that he had obtained it from other officers. There was no error.

AFFIRMED.