FILED
MAR 24 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,) Filed March 24, 1981

vs.)

NORMAN EUGENE HECK, JR.,) 1-009 / 64076

Defendant-Appellant.)

Appeal from Polk District Court - Dale Missildine, Judge.

Defendant appeals from conviction on two counts of delivery of a controlled substance as an accommodation in violation of section 204.401(3) and 204.410, Supplement to the Code 1977, and one count of delivery of a controlled substance in violation of section 204.410(1)(a), Supplement to the Code 1977, alleging that trial court erred in overruling his objection to allegedly self-serving testimony of a State's witness concerning reliability of an undercover agent. AFFIRMED.

William L. Kutmus of Holmes & Kutmus, Des Moines, Iowa, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa; and Merle Wilna Fleming, Assistant Attorney General; for plaintiff-appellee.

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

PER CURIAM

Defendant, Norman Eugene Heck, appeals from his conviction on two counts of delivery of a controlled substance as an accommodation in violation of sections 204.403(3) and 204.410, Supplement to the Code 1977, and one count of delivery of a controlled substance in violation of section 204.410(1)(a), Supplement to the Code 1977. Defendant claims that trial court erred in overruling his objection to allegedly self-serving testimony of a state's witness concerning the reliability of an undercover agent. We affirm.

On May 15, 1979, defendant was charged with four counts of delivery of a controlled substance, cocaine, in violation of section 204.401(1), Supplement to the Code 1977. He pleaded not guilty and the case was tried before a jury. The first count was dismissed. On July 16, 1979, the jury found defendant guilty of delivery of a controlled substance as an accommodation on the first two remaining counts and guilty of delivery of a schedule II controlled substance, cocaine, as charged in the third count. The charges stem from the alleged sales of cocaine by the defendant to Rory Wadle, a police undercover agent, and the defendant's alleged offer to sell cocaine to Dan Reelitz, a Des Moines police officer, in the presence of Wadle. During the trial, Sergeant Jack Morton, a night supervisor of the Des Moines Police Department Narcotics Unit, testified for the State as an expert witness on the illegal drug market in Polk County. On redirect examination Morton was asked about his relationship with Wadle. Morton testified that he would go over certain cases with Wadle, but that basically, he did not supervise Wadle. Instead, Wadle was supervised by Officer Reelitz, who in turn was supervised by Sergeant Morton. Morton was asked: "From your experiences from working with agent Wadle either directly or through Dan Reelitz, Officer Reelitz, was he reliable or was he not reliable?" Defendant objected to the question on the grounds that it called for a self-serving declaration and for an opinion without any proper foundation. The court overruled the objection stating that the witness could state an opinion as a supervisor. Morton stated that what Wadle reported generally turned out to be true.

On September 7, 1979, a judgment was entered and sentences imposed on the various charges. On the same date, defendant filed a notice of appeal.

I. Scope of Review. Since this is an action at law, our review is on assigned error only. Iowa R. App. P. 4.

II. Objection to Testimony of Sergeant Morton. Defendant contends that trial court erred in overruling his objection to the question propounded to Sergeant Jack Morton concerning the reliability of the State's undercover agent Wadle. Defendant objected to the question on the basis that it was a self-serving declaration and called for an opinion and conclusion of the witness without any proper foundation. He argues that Sergeant Morton could not answer the question without reference to extra-judicial statements made to him by Officer Reelitz or others, further arguing that the form of the question reveals its hearsay component. Defendant claims this testimony was prejudicial because the case against him rested upon the credibility of Wadle. We find no merit in defendant's argument.

First, we disagree with defendant's characterization of Morton's testimony as self-serving. A self-serving declaration clearly does not include "... what a witness testifies to directly on the witness stand ...." Bloom v. Steeve, 165 N.W.2d 825, 829 (Iowa 1969). Only those out-of-court statements made by a party in his or her own interest are objectionable as self-serving. We find no self-serving declaration here.

Second, defendant did not object in trial court to the testimony on the grounds of inadmissible hearsay, but he raises this ground for the first time on appeal. Since our review is limited to grounds asserted before the trial court, State v. Matlock, 289 N.W.2d 625, 628 (Iowa 1980), we find defendant failed to preserve error on this issue.

Last, although defendant does not raise the matter in his issue as stated, we also find defendant's objection at trial that the question called for "an opinion and conclusion of the witness without any proper foundation" fails to preserve error. "A general foundation objection does not preserve error, nor does the opinion and conclusion objection." State v. Burrell, 255 N.W.2d 119, 123 (Iowa 1977). See State v. Oppedal, 232 N.W.2d 517, 524 (Iowa 1975). A "no proper foundation" objection must be sufficiently specific to allow the adverse party an opportunity to correct any defects. State v. Mattingly, 220 N.W.2d 865, 869 (Iowa 1974).

Having found no error, we affirm trial court's judgment.

AFFIRMED.