OCT 27 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	Filed October 27, 1981
Plaintiff-Appellee,	)	
vs.	)	1-235/65369
JON H. ROTE,	)	
Defendant-Appellant.	)	

Appeal from Guthrie District Court, James E. Hughes, Judge.

Defendant appeals from his conviction for delivery of LSD in violation of section 204.401(1)(b), The Code 1979, asserting that the evidence establishes that he was entrapped and was insufficient to support the jury's guilty verdict and that his acting as a go-between was as an agent for the buyer rather than as agent for the seller. AFFIRMED.

Donald R. Ferree, Panora, for defendant-appellant.

Thomas J. Miller, Atttorney General, and Roxann Ryan, Assistant Attorney General, for plaintiff-appellee.

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

PER CURIAM

Defendant appeals from his conviction for delivery of LSD in violation of section 204.401(1)(b), The Code 1979, asserting that the evidence established that he was entrapped and was insufficient to support the jury's guilty verdict and that his acting as a go-between was as an agent for the buyer rather than as an agent for the seller.

I. Defendant claims that he was entrapped by the State's agents in this situation because the agents "lulled him into a false sense of security" by becoming his friends.

In Iowa we use the objective test to determine whether police activity constitutes entrapment: "... the police conduct must be sufficiently provocative to induce the normally law-abiding person to commit a crime. Instigations which would induce only a person engaged in an habitual course of unlawful conduct for gain or profit do not constitute entrapment." State v. Leonard, 243 N.W.2d 75, 80 (Iowa 1976).

Given this standard, when the facts are not in dispute, the trial court may determine the question of entrapment as a matter of law. When there is a dispute as to the operative fact, the issue of entrapment must be given to the jury. State v. Baumann, 236 N.W.2d 361, 354 (Iowa 1975).

In this case, there is a dispute of facts and the dispute dealt mostly with defendant's relationship to the police agents. The defendant explained his relationship with the police agents to the jury, and it was its duty to weigh his credibility and determine whether they believed defendant's description of the relationship, or the agents. The jury chose to believe the agents and decided that defendant was not entrapped.

II. Defendant also asserts that the elements of the crime he was charged with were not proven beyond a reasonable doubt, i.e., that the evidence was not sufficient to support the verdict.

Viewing the evidence in the light most favorable to the State, State v. Robinson, 288 N.W.2d 337, 338 (Iowa 1980), we think that the evidence supports the guilty verdict. After announcing that there was acid for sale, that the acid would cost $2.50 a hit and that he would "send Deb over," defendant left the bar. About three to five minutes later Deb Lindberg entered the bar and sold LSD to the parties with whom defendant had talked. Considering all the evidence, we think the jury's verdict is supported by the evidence.

III. Additionally, defendant asserts that he was an agent for the buyer and thus cannot be convicted of selling for profit. Defendant argues that in the bar he merely stated that acid was for sale in Stuart and, if the agent had not approached him, the matter would have ended there.

The jury, however, could and did view the evidence as showing that defendant initiated the transaction by soliciting buyers. Such an inference is supported by the evidence, and we therefore affirm the jury's verdict below.

AFFIRMED.