

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR11-447

MIGUEL ANGEL OSUNA
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered February 1, 2012

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT,
[NO. CR-10-1514-1]

HONORABLE WILLIAM A. STOREY,
JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

Miguel Angel Osuna was found guilty in a Washington County jury trial of three counts of delivery of a controlled substance (marijuana). He received a sentence of five years in the Arkansas Department of Correction for one count and \$5000 fines for each of the two other counts. On appeal, he argues that the trial court erred in denying his directed-verdict motion because the State failed to prove that he was the person who delivered the controlled substance. We affirm.

The pertinent evidence regarding Osuna's convictions for delivery of a controlled substance is as follows. Fayetteville Narcotics Officer Cameron Crafton and Springdale Police Officer Justin Ingram testified that they arranged three separate controlled buys of marijuana from Osuna. In all three transactions, they used a confidential informant, Joshua Martinez, to make the purchases. Martinez had identified Osuna as a drug dealer, and Crafton's search of phone records revealed that Osuna rented the apartment where Martinez claimed he was able



to purchase the marijuana. They equipped Martinez with a wireless device, searched him to make sure that he did not have any drugs on his person or in his vehicle, gave him money to purchase the drugs, and followed him to the apartment complex where the transactions were to take place. On all three occasions, they listened to the transactions on audio, retrieved marijuana from Martinez, and found Martinez no longer had most or all of the buy money that they had provided.

Martinez confirmed that he had purchased marijuana during three separate controlled buys orchestrated by Crafton and Ingram. He identified Osuna's voice in the recording of the transactions. Martinez admitted that he had drug charges dismissed against him in exchange for his work as a confidential informant. He also admitted to receiving money for each drug transaction that he participated in, a total of \$260.

Osuna testified. He admitted that he lived at the residence where the drug transactions took place, but denied selling marijuana to Martinez, or even seeing Martinez at his residence. He also admitted that he had prior convictions for misdemeanor possession of marijuana, but denied ever selling the drug.

On appeal, Osuna argues that the trial court erred in denying his directed-verdict motion. He acknowledges Martinez's testimony, but asserts that it is "suspect" because he had a penal and pecuniary interest in working as a confidential informant. Further, he notes that the police neither recovered the marked buy money, nor discovered any drugs in Osuna's possession. We find this argument unpersuasive.

An appeal from the denial of a motion for directed verdict is a challenge to the



Cite as 2012 Ark. App. 97

sufficiency of the evidence. *Jester v. State*, 367 Ark. 249, 239 S.W.3d 484 (2006). When we review a challenge to the sufficiency of the evidence, we will affirm the conviction if there is substantial evidence to support it, when viewed in the light most favorable to the State. *Dodson v. State*, 341 Ark. 41, 14 S.W.3d 489 (2000). Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resort to speculation or conjecture. *Id.* Viewing the evidence in a light most favorable to the State means that we consider only the evidence that supports the verdict. *Morgan v. State*, 2009 Ark. 257, 308 S.W.3d 147 .

We agree with Osuna that Martinez’s testimony in this case is pivotal. However, it is settled law that the jury has the sole authority to evaluate the credibility of witnesses and to apportion the weight to be given to the evidence. *Smoak v. State*, 2011 Ark. 529, 385 S.W.3d 257. In the instant case, the jury heard both Martinez’s accusations and Osuna’s denials and chose whom to believe. Accordingly, on appeal, because Martinez’s testimony supports the verdict, we are obligated to give it its highest probative force in resolving the issue of whether Osuna sold marijuana to him. *Dodson, supra*. Moreover, we do not consider the weaknesses in the State’s case under our standard of review. *Morgan, supra*. Because the supreme court has held that the uncorroborated testimony of a single witness is sufficient to sustain a conviction, we affirm. *Galvin v. State*, 323 Ark. 125, 912 S.W.2d 932 (1996).

Affirmed.

GLADWIN and WYNNE, JJ., agree.

Mylissia M. Blankenship, for appellant.

Dustin McDaniel, Att’y Gen., by: *Kathryn Henry*, Ass’t Att’y Gen., for appellee.