

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR11-254

RONALD DERON GREEN
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered February 22, 2012

APPEAL FROM THE DESHA
COUNTY CIRCUIT COURT,
[No. CR-2010-18-1]

HONORABLE SAM POPE, JUDGE

AFFIRMED

LARRY D. VAUGHT, Chief Judge

Ronald Deron Green was found guilty by a Desha County Circuit Court jury of delivery of cocaine and sentenced to seventy-five-years' imprisonment in the Arkansas Department of Correction. On appeal, Green argues that the evidence was insufficient to support the conviction. We affirm.

Green's conviction arises out of a controlled drug buy conducted by Officer Jason Williams of the McGehee Police Department and Special Agent John Carter of the Judicial District Drug Task Force. Agent Carter testified that he paid a confidential informant, Sheila Waller, to purchase drugs from Green. According to Agent Carter's testimony, on October 19, 2009, he searched Waller and confirmed that she did not have drugs or money in her possession. After Officer Williams placed a video camera on Waller and gave her twenty dollars in "buy money," she rode out of sight on her bicycle. Approximately twenty-eight minutes later, Waller returned with a substance that appeared to Agent Carter to be cocaine.



He conducted another search of Waller and did not find the “buy money.”

Waller confirmed that on October 19, 2009, Agent Carter searched her, a video camera was placed on her body, and she was given twenty dollars to buy the drugs. She rode her bike to Green’s house, but he was not there when she arrived. Minutes later Green arrived and motioned Waller to the back door. There, she told Green she wanted to buy twenty dollars’ worth of drugs. Green dropped something wrapped in foil on the steps. Waller said that she picked up the packet and gave Green the “buy money.” She immediately left on her bike and returned directly to Agent Carter and Officer Williams. Waller told the jury that her actions were accurately depicted on a digital video disc, which was introduced into evidence. A forensic chemist with the Arkansas State Crime Laboratory testified that the substance that Waller gave to the officers was cocaine. Based on this evidence, the jury convicted Green of delivery of cocaine. Green timely appealed.¹

Green challenges the sufficiency of the evidence supporting his conviction. Our standard of review for a sufficiency challenge is well settled. In reviewing a challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and consider only the evidence that supports the verdict. *Simmons v. State*, 2009 Ark. App. 705, at 2. We affirm a conviction if substantial evidence exists to support it. *Id.* at 2. 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 resorting to speculation or conjecture.

¹This case is before us for a second time. In his initial appeal, *Green v. State*, 2011 Ark. App. 768, we ordered rebriefing because Green failed to abstract his motions for directed verdict and failed to include a copy or an abstract of the videotape of the drug buy. Green has corrected these deficiencies in this appeal.



Id. Circumstantial evidence may provide a basis to support a conviction, but it must be consistent with the defendant's guilt and inconsistent with any other reasonable conclusion.

Id. Whether the evidence excludes every other hypothesis is left to the jury to decide. *Id.* The credibility of witnesses is an issue for the jury and not the court. *Id.* The trier of fact is free to believe all or part of any witness's testimony and may resolve questions of conflicting testimony and inconsistent evidence. *Id.*

The law in effect in 2009 provided that it was unlawful for any person to deliver a controlled substance. Ark. Code Ann. § 5-64-401(a) (Supp. 2009).² "Delivery" is defined as the "actual, constructive, or attempted transfer from one (1) person to another of a controlled substance . . . in exchange for money" Ark. Code Ann. § 5-64-101(7) (Supp. 2009). Applying this law, viewing the evidence in a light most favorable to the State, and considering only the evidence that supports the verdict, we must affirm. Agent Carter testified that before the controlled buy, he properly searched Waller, and she had no drugs or money on her person. Waller corroborated Agent Carter's testimony. Waller testified that she paid Green for drugs. The video taken by Waller does not contradict but instead confirms Waller's version of events. Waller and Agent Carter both testified that after the drug purchase, she was searched, no "buy money" was found, and she tendered the substance she received from Green. The chemist confirmed that the substance was cocaine. This is substantial evidence supporting Green's conviction for delivery of cocaine.

Green's challenge to the sufficiency of the evidence rests solely on his arguments that

²This statute was repealed by Act of March 22, 2011, No. 570, § 33, 2011 Ark. Acts 1851, 1889 (effective July 27, 2011).



Waller's testimony was inconsistent and that Agent Carter's search of Waller was insufficient. Green contends that Waller was a professional "snitch" and that such snitches "lie, cheat, and steal from their own mothers in order to be paid to bust someone." He claims that Agent Carter's search was so poor that Waller could have easily hidden drugs in one of her body cavities, in parts of her clothing, or in the plastic bag that she was carrying, or she could have picked up the drugs en route to Green's house once she was out of the officers' sight. These arguments call into question the credibility of the testimony of the State's witnesses and the weight to be given their testimony. Whether to believe or not believe the testimony of Waller and Agent Carter was a function for the jury not our court on appeal. *Brunson v. State*, 45 Ark. App. 161, 163, 873 S.W.2d 562, 563 (1994). The trier of fact is free to believe all or part of any witness's testimony and may resolve questions of conflicting testimony and inconsistent evidence. *Simmons*, 2009 Ark. App. 705, at 2. Here, the jury chose to believe the testimony of Waller and Agent Carter despite any inconsistencies therein. Credibility determinations are the province of the jury, and we will not disturb them on appeal when there is substantial evidence to support the jury's verdict. *Watson v. State*, 2010 Ark. App. 354, at 1. Because there is substantial evidence supporting Green's conviction for delivery of cocaine, we affirm.

Affirmed.

GRUBER and GLOVER, JJ., agree.

B. Dale West, for appellant.

Dustin McDaniel, Att'y Gen., by: *Laura Shue*, Ass't Att'y Gen., for appellee.