Affirmed and Opinion filed April 13, 2000.

In The

Fourteenth Court of Appeals

NO. 14-98-00494-CR

GUY CORNELL JACKSON, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 185th District Court
Harris County, Texas
Trial Court Cause No. 767,088

O P I N I O N

A jury found appellant Guy Cornell Jackson guilty of possession with intent to deliver cocaine weighing more than one gram but less than four grams. In one point of error, Jackson claims the evidence was legally and factually insufficient. We overrule his point of error and affirm the trial court's judgment.

When reviewing the factual sufficiency of the evidence, we look at the evidence in the light most favorable to the verdict and determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *See Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed.2d 560 (1979); *Mason v. State*, 905 S.W.2d 570, 574 (Tex. Crim. App. 1995); *Roberts v. State*, 987 S.W.2d 160, 163 (Tex.

App.–Houston [14th Dist.] 1999, pet. ref'd). The jury is the exclusive judge of the credibility of witnesses and the weight to be given their testimony. *See Jones v. State*, 944 S.W.2d 642, 647 (Tex. Crim. App. 1996). Likewise, reconciliation of conflicts in the evidence is within the exclusive province of the jury. *See id.* This standard of review is the same for direct and circumstantial evidence. *See Chambers v. State*, 711 S.W.2d 240, 245 (Tex. Crim. App. 1986).

When reviewing the factual sufficiency of the evidence, we view all the evidence without the prism of "in the light most favorable to the prosecution" and set aside the verdict only if it is "so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust." *Clewis v. State*, 922 S.W.2d 126, 129 (Tex. Crim. App. 1996). Although an appellate court is authorized to disagree with the verdict, a factual sufficiency review must be appropriately deferential so as to avoid substituting our judgment for that of the jury. *See id.* at 133; *Roberts v. State*, 987 S.W.2d at 163.

Jackson argues the evidence of his intent to deliver is legally and factually insufficient. However, intent to deliver narcotics can be inferred from circumstantial evidence. *See Williams v. State*, 902 S.W.2d 505, 507 (Tex. App.–Houston [1st Dist.] 1994, pet. ref'd). Factors to consider to prove intent to deliver include: 1) the nature of the location where police arrested a defendant; 2) the quantity of the controlled substance in the defendant's possession; 3) the manner of packaging; 4) the presence of drug paraphernalia (for either drug use or sale); 5) the defendant's possession of large amounts of cash; and 6) the defendant's status as a drug user. *Id.*

The evidence shows that Houston police arrested Jackson at a house that was being raided pursuant to a narcotics search warrant. Neighbors had complained about drug activity at the house, and a confidential informant had purchased cocaine there. When police arrived, Jackson was standing in front of the house by a car. Police saw Jackson drop a bag as they approached. They retrieved the bag, which contained fifteen rocks of crack cocaine. Several police officers testified that in their opinion, possession of such a large amount of

drugs indicated that Jackson was selling them, not merely using them. Typically, a crack addict will possess only one rock of crack cocaine that weighs .1 or .2 grams. Possession of fifteen rocks, weighing a total of 2.5 grams and worth $150 to $300, is more indicative of a dealer. Further, Jackson had no drug paraphernalia, that would indicate that he was using the drugs. However, he did have some $600 in his wallet. Accordingly, we find there is legally sufficient evidence from which to infer Jackson's intent to deliver.

In examining all the record, we further find the evidence is factually sufficient to support Jackson's conviction. Jackson disputed most of the policemen's version of the raid and his arrest. He testified that he was actually standing in the yard across the street when the police arrived. He denied that he dropped the bag of crack and denied that he was a drug dealer. He claimed the police arrested him because he "blew their cover" when he spotted a woman videotaping the house moments before the police arrived. He also claimed that the police linked him to the bag of cocaine only because he had $609 in his wallet. However, reconciliation of this conflicting testimony was within the jury's province as the trier of fact. *See Jones v. State*, 951 S.W.2d 522, 527 (Tex. App.–Beaumont 1997, pet. ref'd). The jury was free to disbelieve Jackson's version of the events of the night and accept the officers' version. *See Sharp v. State*, 707 S.W.2d 611, 614 (Tex. Crim. App. 1986). Two conflicting versions of the facts does not make the verdict so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. *See Clewis*, 922 S.W.2d at 129. Accordingly, we find there is also factually sufficient evidence to infer Jackson's intent.

We overrule Jackson's point of error and affirm his conviction.

/s/ Ross A. Sears
Justice

Judgment rendered and Opinion filed April 13, 2000.
Panel consists of Justices Sears, Draughn, and Hutson-Dunn.*

* Senior Justices Ross A. Sears, Joe L. Draughn, and D. Camille Hutson-Dunn sitting by assignment.

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