Affirmed and Opinion filed December 7, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-97-01082-CR

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PAUL MCKINNEY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 351st District Court
Harris County, Texas
Trial Court Cause No. 736,719

O P I N I O N

Over his plea of not guilty, a Harris County jury found Paul McKinney, appellant, guilty of delivery of a controlled substance. The trial court assessed punishment at thirty-five years' confinement along with a $250,000 fine. In one point of error, appellant argues the evidence is factually insufficient to support the verdict. We affirm.

Appellant is representing himself in this appeal. Interspersed within his argument section he raises several complaints regarding his trial, including, but not limited to, ineffective assistance of counsel, perjury of a State's witnesses, and prosecutorial misconduct. He has, however, properly assigned only one determinative issue for this court to decide: factual sufficiency. Although he is representing himself in his appeal, we will not treat his

brief differently than that of a person represented by counsel; thus, he must present specific points of error or issues to this court, which are supported by argument, authority and the record. *See* TEX. R. APP. P. 38.1; *Castillo v. State*, 810 S.W.2d 180 (Tex. Crim. App. 1990). *Pro se* litigants are held to the same standards as licensed attorneys. *See Kindley v. State*, 879 S.W.2d 261, 264 (Tex. App.—Houston [14th Dist.] 1994, no pet.); *Brown v. Texas Employment Commission*, 801 S.W.2d 5, 8 (Tex. App.—Houston [14th Dist.] 1990, writ denied). Accordingly, we will only address factual sufficiency in this appeal.

In reviewing the factual sufficiency of the evidence, we must ask whether a neutral review of all the evidence, both for and against the finding, demonstrates that the proof of guilt is so obviously weak as to undermine confidence in the jury's determination, or the proof of guilt, although adequate if taken alone, is greatly outweighed by contrary proof. *Johnson v. State*, 23 S.W.3d 1, 11 (Tex. Crim. App. 2000); *see also Childs v. State*, 21 S.W.3d 631, 634 (Tex. App.—Houston [14th Dist.] 2000, pet. filed). "In conducting its factual sufficiency review, an appellate court reviews the fact finder's weighing of the evidence and is authorized to disagree with the fact finder's determination." *Johnson*, 23 S.W.3d at 7 (quoting *Clewis v. State*, 922 S.W.2d 126, 133 (Tex. Crim. App. 1996)). This review, however, must employ appropriate deference to a fact finder's determination to prevent an appellate court from substituting its judgment for that of the fact finder, and any evaluation should not substantially intrude upon the fact finder's role as the sole judge of the weight and credibility given to witness testimony. *Johnson*, 23 S.W.3d at 7 (citing *Jones v. State*, 944 S.W.2d 642, 648 (Tex. Crim. App. 1997)).

Here, appellant's complaints are largely related to instances where he claims the witnesses' testimony is inconsistent. He argues, "[t]he factual inconsistences in the testimonies of the paid informant, the officer making the buy and the raid-team members make clear that the jury verdict was wrong and unjust." We disagree.

A Houston Police Narcotics Investigator received information from an informant that appellant, three accomplices and an unidentified woman were selling drugs from an apartment in Houston, Texas. In response to the tip, the officer began an undercover narcotics investigation.

Early one evening, the officer and the informant went to the apartment under investigation. There the apartment's occupants offered to sell the officer three kilograms of cocaine for $18,300 per kilo. The first time the officer entered the apartment, appellant acted as a lookout. In fact, the officer testified that during the entire transaction, appellant appeared very nervous and continually looked out a window. While he was looking out the window, he paid attention to the conversation between the officer and the other seller in the room, including the negotiation of the price. Appellant also wrote down the officer's pager number to get in touch with him later. He was also inside the apartment when the buy was completed.

After the cocaine transaction had been completed, a raid team entered the apartment to arrest the drug dealers. As the raid team approached, the informant witnessed appellant jumping out of a second-story window while carrying a kilo of cocaine. A member of the raid team also witnessed appellant jump out of the apartment window carrying a kilo of cocaine. The officer apprehended appellant and retrieved the cocaine, which appellant dropped during the chase.

After a neutral review of the evidence, we find that the evidence of appellant's guilt is not so obviously weak as to undermine confidence in the jury's determination. Accordingly, we overrule his sole point of error and affirm the judgment of the trial court.

/s/ Joe L. Draughn
Justice

Judgment rendered and Opinion filed December 7, 2000.
Panel consists of Justices Cannon, Draughn and Lee.*
Do Not Publish — TEX. R. APP. P. 47.3(b).

* Senior Justices Bill Cannon, Joe L. Draughn and Norman Lee sitting by assignment.