IN THE SUPREME COURT OF THE STATE OF NEVADA

RONEL PANKEY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38633

FILED

JAN 23 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of unlawful sale of a controlled substance. The district court sentenced appellant Ronel Pankey to serve a prison term of 18 to 72 months.

Pankey first contends that the district court erred in denying his motion to suppress. Particularly, Pankey contends that the money seized incident to his arrest should have been suppressed because his warrantless arrest was not supported by probable cause. We disagree.

Probable cause to conduct a warrantless arrest in a public place exists when police have reasonable, trustworthy information of facts and circumstances sufficient to warrant a reasonable person to believe that a criminal offense has been committed.[1] Probable cause need not be based on the knowledge of a specific police officer, but instead may be

[1]United States v. Watson, 423 U.S. 411, 417-20 (1976); see also Ornelas v. United States, 517 U.S. 690, 696-700 (1996) (discussing probable cause).

based on the collective knowledge of all officers involved in a particular incident.[2]

In the instant case, the district count found that the collective knowledge of the police officers gave rise to a finding of probable cause. There is sufficient evidence in support of the district court's finding.[3] In particular, officer Cooper of the Reno police officer testified that, while working in an undercover operation known as "Pop Rocks," he observed two males participate in a hand-to-hand exchange while facing the urinals in the restroom of the Cal-Neva Hotel and Casino. Officer Cooper did not see what was being exchanged, but based on his training and experience, believed a drug transaction had taken place. Accordingly, Officer Cooper directed two other officers to detain the male suspects observed in the bathroom. Pankey was one of those suspects, the other was Bernard Wilson.

Wilson was arrested and searched incident to his arrest. The search unveiled two rocks of cocaine, thereby corroborating Officer Cooper's suspicions that drug activity was afoot. Thereafter, Pankey was arrested in the parking garage as he attempted to leave the casino. Officers recovered $250.00 in the search incident to Pankey's arrest.

Because there is sufficient evidence in support of a finding that the officers had probable cause to believe that Pankey had committed a criminal offense prior to his arrest, we conclude that the district court

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[2]Doleman v. State, 107 Nev. 409, 413, 812 P.2d 1287, 1290 (1991).

[3]See State v. Harnisch, 113 Nev. 214, 219, 931 P.2d 1359, 1363 (1997) (recognizing that findings of fact in a suppression hearing will not be disturbed where supported by sufficient evidence), clarified on rehearing, 114 Nev. 225, 954 P.2d 1180 (1998).

did not err in denying Pankey's motion to suppress evidence seized incident to that arrest.

Pankey next contends that there was insufficient evidence to sustain his conviction for unlawful sale of a controlled substance because it rested upon uncorroborated accomplice testimony. We disagree.

When reviewing a claim of insufficient evidence, the relevant inquiry is "'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'"[4] Furthermore, "it is the jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses."[5]

Our review of the record on appeal reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. Wilson testified that he had purchased two rocks of cocaine from Pankey for $25.00. We note that Wilson's uncorroborated testimony in and of itself could have sustained Pankey's conviction because a purchaser of narcotics is not an accomplice to the seller.[6] Wilson's testimony, however, was not uncorroborated. Rather, Officer Cooper testified that he observed the hand-to-hand exchange between Pankey and Wilson, occurring in the casino bathroom. After that exchange, officers seized two rocks of cocaine from Wilson and $250.00 in cash from Pankey.

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[4]Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)) (emphasis in original omitted).

[5]McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

[6]Tellis v. State, 84 Nev. 587, 589-90, 445 P.2d 938, 940 (1968).

The jury could reasonably infer from the evidence presented that Pankey sold Wilson the rock cocaine. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.[7]

Having considered Pankey's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Young

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Jerome Polaha, District Judge
Attorney General/Carson City
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk

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[7]See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).