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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0837**

State of Minnesota,
Respondent,

vs.

Christina Vanda Garza,
Appellant.

**Filed April 8, 2019
Affirmed
Bjorkman, Judge**

Carlton County District Court
File No. 09-CR-17-1281

Keith Ellison, Attorney General, Michael Everson, Assistant Attorney General, St. Paul, Minnesota; and

Lauri A. Ketola, Carlton County Attorney, Carlton, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Florey, Presiding Judge; Connolly, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges her controlled-substance convictions, arguing that insufficient evidence supports them because the only direct evidence of her participation in the offenses

was the testimony of a cooperating witness who participated in a controlled purchase of methamphetamine. We affirm.

FACTS

In mid-June 2017, S.V. was arrested for possessing methamphetamine and agreed to cooperate with police to get out of jail and possibly avoid criminal charges. S.V. arranged to purchase one pound of methamphetamine from M.M. for \$9,000. Before the purchase, police equipped S.V. with a hidden recording device, \$9,000 in cash, and an unmarked vehicle.

On June 22, shortly before midnight, M.M. pulled into the gas station parking lot where he and S.V. had agreed to meet. Appellant Christina Garza got out of M.M.'s vehicle and walked into the gas station, carrying a large blue purse with a white plastic bag inside it. M.M. called S.V. to say he had arrived at the gas station, then pulled around to the side of the building where S.V. had parked. S.V. got out of his vehicle and into M.M.'s vehicle. He handed M.M. the cash. M.M. counted the money and then called Garza, who was in the gas station restroom. He told her to "come out the bathroom" and around the building to his vehicle. Garza made a brief purchase and returned to M.M.'s vehicle.

Garza approached the passenger side of the vehicle, and S.V. opened the door. Garza took a white plastic shopping bag, containing another plastic bag, out of her purse and handed it to him. She told S.V., "You'll be happy It's made up—super made up for ya." S.V. removed his hat to signal police that the transaction was complete.

Officers immediately approached M.M.'s vehicle. They discovered Garza holding the cash in her hand and arrested her and M.M. They also collected the plastic bag from

S.V. It contained a gallon-sized zip bag with a “crystal-like glass material” inside; subsequent testing confirmed that the material was 444.46 grams of methamphetamine.

Garza told police that she knew M.M. was involved with methamphetamine, but she denied selling methamphetamine. Police searched Garza and her purse. From inside Garza’s bra, police recovered a small plastic bag containing a substance later confirmed to be 0.516 grams of methamphetamine. Among the contents of Garza’s purse, police discovered two zip pouches containing \$412 cash and a trace amount (0.019 grams) of methamphetamine.

Garza was charged with first-degree sale of a controlled substance, first-degree possession of a controlled substance, fifth-degree possession of a controlled substance, and introducing contraband into a jail. At trial, S.V. testified that Garza handed him the bag of methamphetamine. He also acknowledged that he has multiple prior convictions and that he arranged the June 22 controlled purchase to avoid another charge. The jury found Garza guilty of all charges, and the district court sentenced her to 105 months’ imprisonment. Garza appeals.

D E C I S I O N

When reviewing a sufficiency-of-the-evidence challenge, we carefully analyze the record to determine whether the evidence is sufficient, when viewed in the light most favorable to the conviction. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012). We must assume that “the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). And we will “not disturb the verdict if the jury, acting with due regard for the presumption of

innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *Ortega*, 813 N.W.2d at 100.

To convict Garza of the sale offense, the state was required to prove that she sold (or gave away, bartered, delivered, exchanged, distributed, or disposed of to another) at least 17 grams of methamphetamine. Minn. Stat. § 152.025, subd. 1(1) (2016); *see* Minn. Stat. § 152.01, subd. 15a (2016) (defining “sell”). To convict Garza of the possession offense, the state was required to prove that she possessed at least 50 grams of methamphetamine. Minn. Stat. § 152.025, subd. 2(1) (2016).

S.V.’s testimony is direct evidence that Garza had in her purse and then delivered to him a plastic bag containing a crystalline substance later confirmed to be 444.46 grams of methamphetamine. This evidence alone amply establishes the requisite elements of both the sale and possession offenses.

Garza contends that S.V.’s testimony is insufficient to support the convictions because (1) he was not a credible witness, in light of his criminal history and cooperation with the police to avoid a drug charge, and (2) his testimony was not sufficiently corroborated. These arguments are unavailing.

First, unlike accomplice testimony, a cooperating witness’s testimony does not present any unique concerns that necessitate corroboration. *Cf. State v. Longo*, 909 N.W.2d 599, 607 (Minn. App. 2018) (explaining that accomplice testimony requires corroboration because it is “inherently suspect”). Rather, “a conviction can rest on the uncorroborated testimony of a single credible witness,” including testimony of a cooperating witness. *State*

v. Foreman, 680 N.W.2d 536, 539 (Minn. 2004); *see State v. Hadgu*, 681 N.W.2d 30, 34 (Minn. App. 2004) (affirming controlled-substance conviction based on testimony of cooperating witness), *review denied* (Minn. Sept. 21, 2004). Credibility determinations are “the exclusive province of the jury,” which we do not second-guess on appeal. *State v. Outlaw*, 748 N.W.2d 349, 356-57 (Minn. App. 2008), *review denied* (Minn. July 15, 2008). The jury heard about S.V.’s criminal history and his motive for working with police and testifying; the verdict reflects that the jury determined that he was nonetheless credible. *See Foreman*, 680 N.W.2d at 539 (stating that a jury apprised of credibility concerns can weigh credibility).

Second, even if corroboration were required, substantial evidence corroborates S.V.’s testimony that Garza was the one who gave him the methamphetamine. Photographic evidence indicates that Garza had a white plastic bag, like the one containing the methamphetamine, in her purse when she entered the gas station. Although S.V. handed the cash to M.M., nothing in the audio recording indicates that M.M. gave S.V. the methamphetamine. The recording reveals that Garza spoke to S.V. about the methamphetamine, telling him, “You’ll be happy It’s made up—super made up for ya.” When officers approached M.M.’s vehicle immediately after the controlled purchase, Garza was the person with the cash. And her purse contained trace amounts of methamphetamine. This evidence thoroughly corroborates S.V.’s testimony implicating Garza.

On this record, we conclude that sufficient evidence establishes that Garza possessed methamphetamine and sold it to S.V.

Affirmed.