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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1108**

State of Minnesota,
Respondent,

vs.

Antoine Kenneth James Adkins,
Appellant.

**Filed May 20, 2019
Affirmed
Slieter, Judge**

Dakota County District Court
File No. 19HA-CR-17-2777

Keith Ellison, Attorney General, St. Paul, Minnesota; and

James C. Backstrom, Dakota County Attorney, Anna Light, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Worke, Judge; and Schellhas,
Judge.

UNPUBLISHED OPINION

SLIETER, Judge

Appellant Antoine Kenneth James Adkins challenges his conviction of fifth-degree possession of a controlled substance, arguing that the evidence was insufficient to prove that he possessed any amount of cocaine. We affirm.

FACTS

On July 9, 2017, Dakota County law enforcement responded to a 911 call reporting a domestic disturbance at an apartment building. Deputy Grimes spoke with appellant in the parking lot. Deputy Welin spoke with the suspected victim, N.C., in her apartment. The deputies arrested appellant for domestic assault and interfering with a 911 call.

Pursuant to the search incident to arrest, Deputy Grimes found a folded five-dollar bill in appellant's pants pocket. On the bill was a white powdery substance that Deputy Grimes suspected to be a controlled substance. Appellant identified it as cocaine when asked, but stated to Deputy Grimes that it belonged to N.C. Deputy Welin took the bill into custody and placed it into a secured evidence locker. The bill was brought to the Dakota County Drug Task Force, where Deputy Reiners performed a preliminary NIK test. The NIK test is a "presumptive preliminary test," which indicated that the substance was cocaine, and it weighed 0.02 net grams.

The drug task force then sent the bill to the Minnesota Bureau of Criminal Apprehension (BCA) to be "certified" after scientific testing. A forensic scientist at the BCA conducted a basic color test which revealed the substance to be cocaine. He also performed an analysis of the cocaine using a gas chromatograph mass spectrometer

(GCMS), which dissolves the cocaine in a solvent and then injects it into the instrument, where it is vaporized and its components analyzed. Based on this testing, the forensic scientist determined the substance to be cocaine. Both the color test and the GCMS “consumed” portions of the cocaine. The scientist did not weigh the cocaine because he could tell by looking at it that it would not be over the 0.010 grams necessary to be weighed properly. The BCA report thus labeled the cocaine’s amount as “trace(s) – not weighed.”

The state charged appellant with fifth-degree possession of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 2(1) (2016), as well as domestic assault, in violation of Minn. Stat. § 609.2242, subd. 1(1) (2016). Prior to trial, the state dismissed the domestic assault charge. At trial, Deputies Grimes, Welin, and Reiners, as well as the BCA forensic scientist testified on behalf of the state.

The jury found appellant guilty. On April 11, 2018, the district court held a sentencing hearing. The district court sentenced appellant to a 21-month term of imprisonment.

This appeal follows.

D E C I S I O N

Appellant argues that the state’s evidence was insufficient to prove that he possessed a controlled substance because the cocaine found on the five-dollar bill in his pocket was not measurable; the BCA only noted that it was a trace amount.

In considering sufficiency-of-the-evidence claims, this court conducts an “analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.”

State v. Webb, 440 N.W.2d 426, 430 (Minn. 1989). We must assume “the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). 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 the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

In order to prove fifth-degree possession of a controlled substance, the state needed to establish that appellant possessed “one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV.” Minn. Stat. § 152.025, subd. 2(1). Cocaine is a schedule II controlled substance. Minn. Stat. § 152.02, subd. 3(b)(4) (2016). In other words, the state merely needed to prove that appellant possessed a mixture containing cocaine; the statute’s plain language does not specify a minimum amount necessary.

In *State v. Traxler*, the state presented evidence that “trace” amounts of methamphetamine were found on coffee filters belonging to the defendant. 583 N.W.2d 556, 562 (Minn. 1998). The supreme court held that there was sufficient evidence to support his fifth-degree possession conviction because that charge “does not require the state to prove a specific weight or time period as separate elements of the offense.” *Id.*

Appellant is unable to effectively distinguish this case from *Traxler*. A trace amount of cocaine was found on the five-dollar bill. Appellant also knew the bill had cocaine on it, and identified it as such. Although it was such a small amount that it was not measurable, *Traxler* instructs that the state does not need to prove an amount to support a fifth-degree

possession conviction. We are bound by precedent in this regard. *See State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018) (“The court of appeals is bound by supreme court precedent . . .”).

Because the state did not need to prove appellant possessed a specific amount of cocaine, the trace amount found on the five-dollar bill in his pocket is sufficient to support his fifth-degree possession conviction under Minn. Stat. § 152.025, subd. 2(1).

Affirmed.