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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1806**

State of Minnesota,
Respondent,

vs.

Carla Leanne Keezer,
Appellant.

**Filed September 30, 2019
Affirmed
Cochran, Judge**

Wadena County District Court
File No. 80-CR-17-811

Keith Ellison, Attorney General, Karen B. McGillic, Assistant Attorney General, St. Paul, Minnesota; and

Kyra L. Ladd, Wadena County Attorney, Wadena, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Cleary, Chief Judge; and
Cochran, Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

Appellant Carla Leanne Keezer challenges her controlled-substance-sale conviction, arguing that the evidence presented to the jury was insufficient to support the

conviction because the state's witness was not credible. Because we defer to the jury's credibility determinations, we affirm.

FACTS

In October 2017, a police officer was conducting surveillance near appellant Carla Leanne Keezer's residence. The officer had information that Keezer's son was importing methamphetamine from another state. While monitoring the residence, the officer spoke with an individual (the informant) who was in a vehicle nearby. The informant had a syringe used for methamphetamine in plain view. At the time, the informant was on probation for fifth-degree controlled-substance crime. The officer asked the informant where he had come from, and the informant responded that he had come from Keezer's residence. The informant also told the officer that he had purchased methamphetamine from Keezer. The officer asked the informant whether he would be willing to buy additional drugs from Keezer. In return, the officer told the informant that he would not charge the informant with possession of the methamphetamine syringe, which would also constitute a probation violation for the informant. The informant agreed to participate in a controlled buy.

The controlled buy occurred later that same day. Several officers were involved in the controlled buy. The officers gave the informant a recording device to wear. The device recorded audio of the controlled buy and allowed the officers involved to listen in on the controlled buy as it happened. The officers gave \$800 to the informant to purchase an ounce of methamphetamine from Keezer. They took pictures of the money to document it before giving it to the informant. The officers also searched the informant and his car

before the controlled buy. The officers instructed the informant to go to Keezer's residence, purchase an ounce of methamphetamine, and meet them at a specified location afterwards. The informant contacted Keezer and made arrangements to meet at her residence. Three police vehicles followed the informant to Keezer's residence.

When the informant arrived, Keezer and two men were at the residence. Keezer asked the informant to take her to the gas station, which he did. Police officers followed them to and from the gas station and observed Keezer in the car. The officers could hear the informant and Keezer having a conversation through the recording device during the trip to the gas station. When the informant and Keezer returned to Keezer's residence, Keezer went upstairs to her room and the informant eventually followed. Another one of the men at the residence, Williams, was also in Keezer's room. Keezer told the informant that she only had about a quarter-ounce of methamphetamine and that she would give him the rest in the morning. The informant gave Keezer \$700 with the understanding that Keezer would give him the rest of the ounce the following day. Keezer's voice was the only woman's voice on the audio recording of the transaction. Police officers connected Keezer to the voice on the recording because they had seen her in the car on the way to the gas station and recognized her voice from listening to her conversation with the informant while they drove to the gas station.

After the transaction, the informant left Keezer's residence and went to his car. While in the car, he took a piece of the methamphetamine that Keezer sold to him and hid it in an electric razor. He then met with the police officers. The officers asked the informant whether he had taken some of the methamphetamine for himself. The informant

confessed that he took some of it. He told them that it was in the razor. A Bureau of Criminal Apprehension forensic scientist tested the substance that the informant provided to police and confirmed that it was approximately 4.4 grams of methamphetamine.

Following the controlled buy, police obtained a warrant to search Keezer's residence. They executed the warrant later that night. Keezer, Williams, another man named Basswood, and a fourth man (the homeowner) were all present when the warrant was executed. Basswood had \$60 of the controlled-buy fund money and another \$20 was found in Williams's bedroom.

The state charged Keezer with third-degree controlled-substance sale under Minn. Stat. § 152.023, subd. 1(1) (2016), and petty misdemeanor possession of drug paraphernalia under Minn. Stat. § 152.092(a) (2016), but dismissed the paraphernalia charge prior to trial. The sale charge proceeded to jury trial. The state called the informant, who testified that Keezer sold him methamphetamine. The state introduced the audio recording of the controlled buy. The informant testified that the female voice on the recording was Keezer's. At one point in the recording, Keezer counted out the money that the informant gave her in exchange for the methamphetamine. Keezer also said, "I will give you more tomorrow when we have more. Okay?" The state also called police officer witnesses who were involved in surveilling the controlled buy. Both parties made remarks in their closing arguments about the informant's credibility, and the defense attorney specifically referenced the informant's criminal history and his attempt to keep some of the methamphetamine from the controlled buy. The jury found Keezer guilty. The district court convicted Keezer and sentenced her to 57 months' imprisonment.

Keezer appeals.

DECISION

Keezer challenges the sufficiency of the evidence supporting her conviction of third-degree controlled-substance sale under Minn. Stat. § 152.023, subd. 1(1). She argues that the informant was inherently not credible because of his criminal history, his purported motive to lie, his attempt to keep a portion of the controlled-buy methamphetamine, and his imprecise testimony.

In reviewing the sufficiency of the evidence supporting a conviction, this court conducts “a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). We 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). “[W]e 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.

Keezer argues that the informant’s testimony was inherently not credible and that his testimony cannot support her conviction without evidence corroborating the testimony. Her argument is not supported by case law. The supreme court has held that “a conviction can rest on the uncorroborated testimony of a single credible witness.” *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). “The weight and credibility of

individual witnesses is for the jury to determine.” *State v. Bliss*, 457 N.W.2d 385, 390 (Minn. 1990). The court of appeals “cannot retry the facts.” *Id.* at 391.

Keezer notes that the Minnesota Supreme Court has reversed convictions based on uncorroborated witness testimony where “additional reasons to question [the witness’s] credibility” exist. *See Foreman*, 680 N.W.2d at 539. But, in each of the cases cited by Keezer, there were unique circumstances that gave rise to additional reasons to question the witness’s credibility. For example, in *State v. Huss*, 506 N.W.2d 290, 292-93 (Minn. 1993), the supreme court reversed a conviction of criminal sexual conduct supported by a young child victim’s testimony of sexual abuse by her father where there was expert testimony that the young victim had been exposed by her mother to highly suggestive material. In *State v. Langteau*, 268 N.W.2d 76, 77 (Minn. 1978), the supreme court reversed a conviction for assault based on the victim’s uncorroborated testimony because the victim’s testimony was questionable and unexplained. And in *State v. Gluff*, 172 N.W.2d 63, 65 (Minn. 1969), the supreme court reversed a robbery conviction based on an uncorroborated identification of the defendant because the witness had seen the perpetrator for only a short time and there had been errors in the lineup process.

Other circumstances that arguably affect a witness’s credibility, however, have not required reversal of a conviction. For example, in *State v. Hill*, 172 N.W.2d 406, 407 (Minn. 1969), the supreme court affirmed a conviction based on a witness’s testimony despite the witness’s statements outside of court that he would testify against the defendant because he did not like the defendant. In *State v. Reichenberger*, 182 N.W.2d 692, 694 (Minn. 1970), the supreme court affirmed a conviction based on a victim’s testimony

despite the victim's conflicting statements about the incident at various times prior to trial. And in *State v. Triplett*, 435 N.W.2d 38, 44-45 (Minn. 1989), the supreme court affirmed a conviction based on the testimony of a witness even though there was evidence that the witness used drugs, lied to police, and forged checks because the jury heard evidence of the behavior that purportedly impugned his credibility. See also *State v. Poganski*, 257 N.W.2d 578, 581 (Minn. 1977) (affirming conviction based on witness testimony despite evidence that the witness filed false insurance claims and received favorable treatment for agreeing to testify).

Based on our review of precedent, we conclude that this case does not present any additional, unique circumstances that require reversal of Keezer's conviction. Here, the jury was aware of the informant's history and actions, and was able to take these factors into account in assessing his credibility. See *Triplett*, 435 N.W.2d at 44-45 (deferring to the jury's credibility determination when the jury was apprised of evidence that arguably impugned a key witness's credibility). We defer to the jury's credibility determination in reviewing the sufficiency of the evidence, and conclude that the informant's express testimony that Keezer sold him methamphetamine is sufficient to support Keezer's drug-sale conviction. See *Foreman*, 680 N.W.2d at 539.

In reaching this conclusion, we reject Keezer's assertion that Minnesota has "joined other jurisdictions in recognizing that informants with similar backgrounds and motives" to those of the informant are inherently not credible. Keezer misstates the law. There is no Minnesota case law adopting such a standard in a challenge based on the sufficiency of the evidence. The Minnesota cases cited by Keezer discuss the trustworthiness of an

informer in other contexts. See *State v. Keeton*, 589 N.W.2d 85, 90-91 (Minn. 1998) (addressing whether the district court erred in admitting an unavailable witness's sentencing hearing transcript into evidence under a hearsay exception); *State v. Maldonado*, 322 N.W.2d 349, 351 (Minn. 1982) (discussing, in the probable cause context, the difference between citizen informers and other types of informers). And, in an unpublished opinion, this court expressly declined to follow the out-of-state case law that Keezer claims Minnesota has joined.¹ *State v. Robinson*, No. CX-02-662, 2003 WL 42175 (Minn. App. Jan. 7, 2003) (declining to follow *People v. Huffman*, 532 N.E.2d 556, 562 (Ill. Ct. App. 1988), and *State v. Johnson*, 627 N.W.2d 753, 763 (Neb. 2001)). As we noted above, the Minnesota Supreme Court has held that the weight and credibility of an individual witness is for the jury to determine. *Bliss*, 457 N.W.2d at 390.

We also note that even if Minnesota law required corroborating evidence to establish an informant-witness's credibility at trial, Keezer's argument fails because the state presented significant corroborating evidence. The discovery of controlled-buy money with those at Keezer's residence, the methamphetamine seized, the testimony of the police officers that corroborated the informant's testimony, and most notably, the audio recording of the controlled buy, all corroborated the informant's testimony and bolstered his credibility.

¹ We note that unpublished opinions of this court are not precedential, but may be persuasive. Minn. Stat. § 480A.08 (2018); *Dynamic Air, Inc. v. Bloch*, 502 N.W.2d 796, 800 (Minn. App. 1993) (holding that, although not binding precedent, unpublished opinions may be persuasive).

Based on our review of the evidence presented at trial, with particular attention to the informant's testimony and the evidence that corroborated it, we conclude that there was clearly sufficient evidence to support Keezer's conviction.

Affirmed.