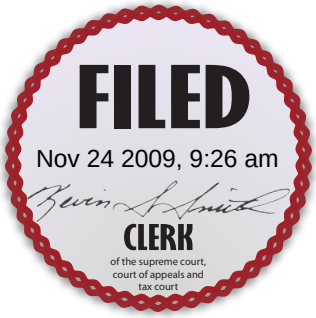
Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

DALE W. ARNETT
Winchester, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana
Indianapolis, Indiana

IAN McLEAN
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

CREDELL HENRY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 89A01-0903-CR-145
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE WAYNE SUPERIOR COURT
The Honorable P. Thomas Snow, Judge
Cause No. 89D01-0705-FB-12

NOVEMBER 24, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

Credell Henry appeals his conviction by jury of dealing in cocaine as a class B felony. We affirm.

The sole issue for our review is whether there is sufficient evidence to support Henry's conviction.

The facts most favorable to the verdict reveal that in March 2007, Theresa Smith agreed to be a confidential informant for the Richmond Police Department Drug Task Force. Smith agreed to make her first cocaine purchase on March 27, 2007. That day, Smith was strip-searched by Richmond Police Department Officer Pamela Mertz. Mertz thoroughly searched Smith's clothing and person, and required Smith to squat and cough in order to find anything that might be hidden on Smith's person.

After the search, Smith was given $60.00 to purchase the cocaine and was wired with audio and video recording devices. Drug Task Force Officers drove Smith to a pay phone in a gas station parking lot. While Smith was on the telephone to Henry, Bernice Thoday approached her. The two women briefly argued, and Thoday walked away. Henry arrived at the gas station shortly after Smith telephoned him. Smith got into the front passenger seat of Henry's car, and Henry drove them to a nearby liquor store.

During the drive, Henry asked Smith if she "wanted three." Tr. at 323. Smith responded that she had "sixty." Tr. at 323. Henry told her that he only had "one on [him]," but that he had three. Tr. at 323. While Smith and Henry were in the liquor store parking lot, Tammy Oakley entered Henry's car for approximately thirty seconds, and then left the vehicle. After Smith and Henry left the liquor store parking lot, Henry

dropped Smith off in another gas station parking lot. When he returned, he gave her three pieces of cocaine wrapped in plastic and told her to put them in her mouth. Henry drove Smith back to the first gas station and dropped her off. When Drug Task Force Officers picked up Smith, she spit out three pieces of cocaine. Smith died before trial. A jury convicted Henry of dealing in cocaine, and he appeals.

Henry's sole contention is that there is insufficient evidence to support his conviction. Our standard of review for sufficiency of the evidence is well settled. We neither reweigh the evidence nor assess the credibility of witnesses. *Sallee v. State*, 777 N.E.2d 1204, 1208 (Ind. Ct. App. 2002), *trans. denied*. Rather, we look to the evidence and reasonable inferences to be drawn therefrom. *Id.* If there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt, we will affirm the conviction. *Id.*

Indiana Code Section 35-48-4-1 provides that a person who knowingly or intentionally delivers cocaine commits dealing in cocaine as a Class B felony. Henry contends that there is insufficient evidence that he delivered the cocaine to Smith. In support of his contention, Henry directs us to *Watson v. State*, 839 N.E.2d 1291 (Ind. Ct. App. 2005). There, we reversed Watson's conviction for dealing in cocaine because the confidential informant that purchased the cocaine from Watson was not searched prior to the buy and was not at trial to testify that she received the cocaine from Watson. However, *Watson* is not controlling because Smith was thoroughly searched before purchasing the cocaine from Henry.

Here, our review of the evidence most favorable to the verdict reveals that drug task force officers drove Smith to a gas station pay telephone. Smith telephoned Henry, who arrived at the gas station shortly thereafter. Smith got into the car with Henry, and he dropped her off at another gas station. When he returned, he gave her three pieces of cocaine that were wrapped in plastic and told her to put in her mouth. Henry dropped Smith off at the first gas station, where she was met by drug task force officers. Smith gave the three pieces of cocaine to the officers. This evidence is sufficient to show that Henry delivered the cocaine to Smith. Henry's suggestion that Thoday or Oakley might have delivered it is nothing more than an invitation for us to reweigh the evidence, which we cannot do. There is sufficient evidence to support Henry's conviction of dealing in cocaine.

Affirmed.

BARNES, J., and CRONE, J., concur.