

**IN THE SUPREME COURT**

**STATE OF NORTH DAKOTA**

State of North Dakota,	)	
	)	
Plaintiff and Appellee,	)	
vs.	)	Supreme Ct. No. 20210142
	)	
Jaime Urrabazo,	)	District Ct. No. 09-2020-CR-02642
	)	
Defendant and Appellant.	)	

**APPELLEE’S BRIEF**

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Appeal from Criminal Judgment Entered  
on December 21, 2020  
East Central Judicial District  
the Honorable Frank Racek, Presiding

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**[¶ 3] STATEMENT OF JURISDICTION**

[¶ 4] This Court had jurisdiction over this appeal under N.D. Const. art. VI, § 6 and N.D.C.C. § 29-28-06.

**[¶ 5] STATEMENT OF ISSUE**

[¶ 6] Whether the evidence was sufficient to sustain the jury's verdict of guilty on the charge of delivery of methamphetamine in Count two of the information.

**[¶ 7] STATEMENT OF CASE**

[¶ 8] On June 25, 2020, Jaime Urrabazo ("Urrabazo") was charged with two counts of delivery of methamphetamine. Appellant's Appendix at page 3 ("App. 3"). On April 29-30, 2021, a jury trial occurred. App. 3-6. On April 30, 2021, the jury convicted Urrabazo on Count Two and acquitted Urrabazo on Count One of the information. App. 3-6. On May 10, 2021, a notice of appeal was filed. App. 6, 30. This is an appeal from the Judgment dated April 30, 2021, in East Central Judicial District Court, in Cass County, North Dakota, by the Honorable Frank Racek. App. 27-30.

[¶ 8A] Urrabazo argues that there was insufficient evidence for a jury to return a guilty verdict on Count Two of the information. The State argues that the jury's guilty verdict on Count Two of the information should not be set aside because the evidence, viewed in the light most favorable to the verdict, reveals a reasonable inference of guilt. Specifically, the evidence presented at trial including the testimony from Task Force Officer Chris Fix ("Fix") and Candice Arechigo

("Arechigo") regarding Urrabazo's delivery of methamphetamine to Arechigo, would allow a rational fact finder to find Urrabazo guilty beyond a reasonable doubt of delivery of methamphetamine.

**[¶ 9] STATEMENT OF FACTS**

[¶ 10] On October 22, 2019, and October 30, 2019 the Cass County Drug Tasks Force conducted two controlled purchases of methamphetamine from Urrabazo. Transcript of Jury Trial at page 78, lines 20-23. ("Tr. 78: 20-23"). Fix was an officer with the Cass County Drug Task Force in October of 2019. Tr. 75: 21-22. Fix was the case agent involved with the controlled transactions involving Arechigo purchasing methamphetamine from Urrabazo. Tr. 78: 20-21. During October of 2019, Arechigo was the confidential informant for the Cass County Drug Task Force in the two cases involving Urrabazo. Tr. 14: 14-16; 16: 20-23. Fix testified that he searched Arechigo before both transactions and provided her with a cell phone, recording device, and money. Tr. 89: 2-11. Fix and his team provided surveillance for both transactions. Tr. 90: 11-14. After the transactions, Fix's team would take possession of the drugs and search Arechigo to verify she did not have anything not allowed on her person. Tr. 90: 17-24. Arechigo testified that her involvement as a confidential informant resulted in some of her pending criminal cases being dismissed and some resulted in time served sentences. Tr. 15: 15-24.

[¶ 11] The jury acquitted Urrabazo of delivery of methamphetamine occurring on October 22, 2019, in Count one of the information. App. 25. Therefore, the conviction on the second controlled purchase (Count 2 of the information), is

the only issue on this appeal. The second controlled purchase occurred on occurred on October 30, 2019. Tr. 25: 23-25. Arechigo arranged to purchase more methamphetamine from Urrabazo on October 30, 2019. Tr. 63: 13-18. The task force officers conducted the same checks of Arechigo as the first controlled purchase. Tr. 26: 4-5. Fix gave Arechigo \$525 for this sale, as the price of one-half ounce of methamphetamine had increased. Tr. 26: 11-18. For this controlled purchase, Arechigo met Urrabazo outside of his residence in Cass County. Tr. 27: 10-15. Fix was able to observe Urrabazo and Arechigo interacting at the window of the vehicle. Tr. 107: 3. Urrabazo gave Arechigo the one-half ounce of methamphetamine through her car window in exchange for \$525. Tr. 27: 18-22. Arechigo tucked the baggie of methamphetamine between her legs as the transaction was occurring in public. Tr. 28: 18-19. While driving away from the controlled purchase, Arechigo noticed that the baggie of methamphetamine had broken open, resulting in it spilling on her and in the vehicle. Tr. 29: 20-24. Arechigo called Fix to meet sooner than planned because of the spilled methamphetamine. Tr. 31: 1-21. Fix testified that he saw Arechigo leave the scene and maintained visual contact until they met. Tr. 106: 4-23. Once Fix met Arechigo, he testified that Arechigo had methamphetamine that she did not have before she met with Urrabazo. Tr. 109: 5-25. Fix and his team helped get Arechigo and the vehicle clean once they made contact. Tr. 31: 1-6. The North Dakota Crime Lab confirmed that the substances delivered to Ms. Arechigo were in fact methamphetamine. Tr. 98: 23-24; 114: 3-23.

[¶ 12] After the State rested, Urrabazo moved for a Rule 29 motion, which

was denied. Tr. 150: 16-20; Tr. 151: 24. At the end of trial, the jury returned a verdict of not guilty on Count One of delivery of a controlled substance on October 22, 2019, and guilty on Count Two of delivery of a controlled substance on October 30, 2019. App. 25-27. Urrabazo now appeals, alleging insufficient evidence to sustain the guilty verdict against him on Count Two. App. 30.

### [¶ 13] STANDARD OF REVIEW

[¶ 14] “Appellate review of the sufficiency of the evidence for a jury verdict is very limited.” State v. Alvarado, 2008 ND 203, ¶ 20, 757 N.W.2d 570 (quoting State v. Freed, 1999 ND 185, ¶ 4, 599 N.W.2d 858). “When the sufficiency of evidence to support a criminal conviction is challenged, this Court merely reviews the record to determine if there is competent evidence allowing the jury to draw an inference reasonably tending to prove guilt and fairly warranting a conviction.” State v. Coppage, 2008 ND 134, ¶ 24, 751 N.W.2d 254 (quoting State v. Schmeets, 2007 ND 197, ¶ 8, 742 N.W.2d 513). When this Court is determining whether there is sufficient evidence for a conviction, this Court only considers the evidence and inferences that are most favorable to the verdict. State v. Buchholz, 2006 ND 227, ¶ 20, 723 N.W.2d 534. “The defendant bears the burden of showing the evidence reveals no reasonable inference of guilt when viewed in the light most favorable to the verdict.” Coppage, at ¶ 24 (quoting Schmeets, at ¶ 8). When considering insufficiency of the evidence, this Court will not “reweigh conflicting evidence or judge the credibility of witnesses.” State v. Hidanovic, 2008 ND 66, ¶ 44, 747 N.W.2d 463. This Court has held, “A jury may find a defendant guilty even though

evidence exists which, if believed, could lead to a verdict of not guilty.” State v. Wilson, 2004 ND 51, ¶ 9, 676 N.W.2d 98 (quoting State v. Hatch, 346 N.W.2d 268, 277 (N.D.1984)). “A conviction rests upon insufficient evidence only when, after reviewing the evidence in the light most favorable to the prosecution and giving the prosecution the benefit of all inferences reasonably to be drawn in its favor, no rational fact finder could find the defendant guilty beyond a reasonable doubt.” State v. Frohlich, 2007 ND 45, ¶ 27, 729 N.W.2d 148, 154.

[¶ 15] **LAW AND ARGUMENT**

[¶ 16] I. **There was sufficient evidence for the jury to convict Urrabazo of delivery of methamphetamine.**

[¶ 17] Under N.D.C.C. § 19-03.1-23(1), “it is unlawful for a person to willfully . . . deliver, or possess with intent to manufacture or deliver, a controlled substance[.]” The offense is a class B felony if the controlled substance is methamphetamine. N.D.C.C. § 19-03.1-23(1)(a). The State’s burden of proof was satisfied in this case when the evidence showed beyond a reasonable doubt the following essential elements: on or about October 30th, 2019, in Cass County, North Dakota, the Defendant, Jaime Urrabazo, willfully delivered a controlled substance, methamphetamine. Tr. 155: 6-10.

[¶ 18] All that is necessary to sustain a conviction challenged on sufficiency of the evidence grounds is that the State offered evidence going to each element of the crime for which the defendant was convicted. State v. Lambert, 539 N.W.2d 288, 288 (N.D. 1995). In this case, Arechigo testified that Urrabazo delivered her



the methamphetamine on October 30, 2019, in Cass County. Tr. 27: 10-22. Fix verified Arechigo's testimony by testifying that he saw the controlled purchase between Urrabazo and Arechigo on October 30, 2019. Tr. 107: 3. After the controlled purchase, Arechigo returned to Fix with methamphetamine that she bought from Urrabazo. Tr. 109: 5-25. The methamphetamine was tested at the North Dakota State Crime Lab and was verified as being methamphetamine. Tr. 98: 23-24; 114: 3-23. The State presented evidence to the jury for each element of Count 2 of Delivery of a Controlled Substance for which Urrabazo was convicted. Viewed in the light most favorable to the verdict, a rational fact finder would have concluded that Urrabazo was guilty on Count 2 of delivery a controlled substance.

[¶ 19] Urrabazo argues the credibility of the witnesses and lack of more physical evidence of the crime mean that there is not sufficient evidence to sustain his conviction. This Court, however, is not to weigh conflicting evidence or judge the credibility of witnesses. Frohlich, at ¶ 27. This Court has also, "long recognized juries may draw rational inferences based upon common knowledge in reaching a verdict, and that is not only permissible but also desirable." State v. Hannah, 2016 ND 11, ¶ 9, 873 N.W.2d 668, 671 (citing State v. Bitz, 2008 ND 202, ¶ 10, 757 N.W.2d 565). The evidence presented to the jury is clearly sufficient to sustain Urrabazo's conviction. Urrabazo, further, has not met the burden of showing the evidence reveals no reasonable inference of guilt when viewed in the light most favorable to the verdict. Coppage, at ¶ 24 (quoting Schmeets, at ¶ 8). For that reason, this Court should affirm Urrabazo's conviction.

[¶ 20] **CONCLUSION**

[¶ 21] For the foregoing reasons, the State respectfully requests this Court **AFFIRM** the district court's criminal judgement entered on April 30, 2021.

[¶ 22] Respectfully submitted this 2<sup>nd</sup> day of August 2021.

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**[¶ 23] CERTIFICATE OF COMPLIANCE**

[¶ 24] I hereby certify that this brief complies with N.D.R.App.P. 32(a)(8).

The page count is eleven pages.

[¶ 25] Dated this 2<sup>nd</sup> day of August 2021.

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**[¶ 26] CERTIFICATE OF SERVICE**

[¶ 27] A true and correct copy of the foregoing document was sent by e-mail on 2<sup>nd</sup> day of August, 2021, to Laura C. Ringsak at lringsak@midconetwork.com.

Derek Steiner, #08124