

IN THE COURT OF APPEALS OF IOWA

No. 17-1556
Filed September 12, 2018

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JASON SHIMAR KEYS,
Defendant-Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Rustin T. Davenport, Judge.

The defendant appeals the denial of his motion for new trial following remand. **AFFIRMED.**

David A. Kuehner of Eggert, Erb, Kuehner & DeBower, PLC, Charles City, for appellant.

Thomas J. Miller, Attorney General, and Louis S. Sloven, Assistant Attorney General, for appellee.

Considered by Vaitheswaran, P.J., and Doyle and Mullins, JJ.

DOYLE, Judge.

A jury found Jason Keys guilty of delivery of methamphetamine. On appeal, we affirmed Keys's conviction, but remanded the case to the district court to apply the correct standard in considering Key's motion for new trial. *State v. Keys*, No. 15-1991, 2017 WL 1735617, at *10–11 (Iowa Ct. App. May 3, 2017). On remand, the district court heard additional arguments, applied the weight-of-the-evidence standard, and denied the motion for new trial. Keys appeals.

The standard of review on a motion for new trial is for abuse of discretion. *State v. Shanahan*, 712 N.W.2d 121, 135 (Iowa 2006). Our "review is limited to a review of the exercise of discretion by the trial court, not of the underlying question of whether the verdict is against the weight of the evidence." *State v. Reeves*, 670 N.W.2d 199, 203 (Iowa 2003). Keys argues the State's main witness, a confidential informant, was not credible; that the State's evidence corroborating the confidential informant was lacking; and that identification of Keys was questionable. He contends a new trial should be granted to avoid a miscarriage of justice. We affirm.

Iowa Rule of Criminal Procedure 2.24(b)(6) permits a district court to grant a motion for new trial when a verdict is contrary to the weight of the evidence. A verdict is contrary to the weight of the evidence only when a greater amount of credible evidence supports one side of an issue or cause than the other.

The weight-of-the-evidence standard requires the district court to consider whether more credible evidence supports the verdict rendered than supports the alternative verdict. It is broader than the sufficiency-of-the-evidence standard in that it permits the court to consider the credibility of witnesses. Nonetheless, it is also more stringent than the sufficiency-of-the-evidence standard in that it allows the court to grant a motion for new trial only if more evidence supports the alternative verdict as opposed to the verdict rendered. The question for the court is not whether there was sufficient credible evidence to support the verdict rendered or an alternative verdict, but

whether a greater amount of credible evidence suggests the verdict rendered was a miscarriage of justice.

. . . [A] motion for new trial brought under the weight-of-the-evidence standard essentially concedes the evidence adequately supports the jury verdict. Consequently, a district court may invoke its power to grant a new trial on the ground the verdict was contrary to the weight of the evidence only in the extraordinary case in which the evidence preponderates heavily against the verdict rendered.

State v. Ary, 877 N.W.2d 686, 706 (Iowa 2016) (cleaned up).¹

In reviewing the case under the weight-of-the-evidence standard, the district court determined: (1) the State's witness, a confidential informant, was credible; (2) the confidential informant's testimony was consistent with and supported by other testimony, and further supported by Keys's recorded statements to law enforcement; and (3) the identification of Keys's voice on an audio recording was credible evidence. The district court analyzed the evidence and found "that more credible evidence supports the guilty verdict than supports any other alternative verdict. The verdict in this case is not contrary to the weight of the evidence, and the verdict is not a miscarriage of justice." Upon our review, we agree. The district court's conclusions are reasoned and supported by the record. We find no abuse of discretion by the district court in denying Keys's motion for new trial.

AFFIRMED.

¹ "Cleaned up" is a relatively new parenthetical used to indicate that internal quotation marks, alterations, and citations have been omitted from quotations for readability purposes. See *United States v. Steward*, 880 F.3d 983, 986 n.3 (8th Cir. 2018); Jack Metzler, *Cleaning Up Quotations*, 18 J. App. Prac. & Process 143 (Fall 2017).