

**IN THE COURT OF APPEALS OF IOWA**

No. 6-732 / 05-0934  
Filed November 30, 2006

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**ALVIN LEE COOPER,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Scott County, David E. Schoenthaler, Judge.

Alvin Lee Cooper appeals his conviction of two counts of possession with intent to deliver, harassment, and interference with official acts. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert Ranschau, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda Hines, Assistant Attorney General, William E. Davis, County Attorney, and Kelly G. Cunningham, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

**MAHAN, J.**

Alvin Lee Cooper appeals his conviction of two counts of possession with intent to deliver, harassment, and interference with official acts. He argues there was insufficient evidence to show his identity or his intent to deliver. We affirm.

**I. Background Facts and Proceedings**

On November 6, 2004, police investigating a “shots fired” call encountered Cooper sitting in a car behind an apartment building. Cooper got out of the vehicle as the officers approached. They told him to place his hands on his head so they could perform a pat down. Cooper appeared to comply at first, then ran away. The officers chased him. While they were chasing him, they saw him reach into his pockets and throw away small plastic bags. A crowd had gathered and cheered Cooper on. Police were unable to catch Cooper at that time. They were, however, able to locate three of the plastic bags Cooper had thrown.<sup>1</sup> Two bags contained approximately one-half ounce of marijuana each, while the third contained eight tablets of ecstasy.

Cooper was charged with four crimes: possession with intent to deliver a schedule I controlled substance (ecstasy), in violation of Iowa Code sections 124.401(1)(c)(8), 124.204(4)(z), and 703.1 (2005); possession with intent to deliver a schedule I controlled substance (marijuana), in violation of sections 124.401(1)(d), 124.204(4)(m), and 703.1; harassment, in violation of section 718.4; and interference with official acts, in violation of section 709.1(1). After a bench trial on April 18 and 19, 2005, the district court convicted him on all four counts. Cooper appeals.

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<sup>1</sup> Police suspect the crowd that had cheered Cooper took some of the bags.

## II. Standard of Review

We review the sufficiency of the evidence to convict for errors at law. *State v. Nitcher*, 720 N.W.2d 547, 556 (Iowa 2006).

## III. Merits

### A. Identity

Cooper argues there is insufficient evidence identifying him as the individual police chased on November 6, 2004. At trial, two of his witnesses provided him with an alibi. He also claims he and his brother look very much alike.

We find there is sufficient evidence to identify Cooper. One of the officers who chased Cooper that night recognized him from a club where the officer worked. Both officers were able to identify him immediately upon seeing a picture of him at the police station shortly after the chase. At trial, both officers also testified to their certainty that Cooper was the person they chased:

Q. How close were you to this individual that got out of the car? OFFICER ONE: Again I was within—once he turned to me, within a foot of his face.

Q. Did you know this individual? OFFICER ONE. I know him to have a nickname of Blue, King Blue.

....

Q. So did you immediately recognize him when he got out of the car? OFFICER ONE. Yes.

Q. No problems with that at all? OFFICER ONE: No.

....

Q. How certain are you that the subject that you were dealing with was Alvin Cooper? OFFICER TWO: I'm absolutely certain.

Q. Any doubt in your mind? OFFICER TWO: No, ma'am.

Additionally, Cooper is five feet eight inches tall. His brother, on the other hand, is five feet four inches tall. One of the officers, who is five feet eight inches tall,

testified that he was eye-to-eye with the individual he encountered on November 6. Further, officers found a cap in the car in which Cooper was sitting embroidered with the name of Cooper's company on the front and "King Blue" on the back. Finally, the district court determined that both witnesses who provided Cooper's alibi were not credible. For these reasons, we conclude there is sufficient evidence to identify Cooper as the person the officers chased.

### **B. Intent to Deliver**

Cooper argues the evidence was insufficient to show he possessed marijuana and ecstasy with the intent to deliver. We disagree for several reasons. First, Cooper ran away when officers told him to place his hands on his head so they could pat him down. Second, as he ran, Cooper was observed discarding several small plastic bags. Third, though police were only able to find three of the bags Cooper discarded as he ran, all three contained drugs. Fourth, no paraphernalia indicating personal use of the drugs was found in the car. Fifth, a narcotics expert testified the manner in which the marijuana was packaged was consistent with the intent to deliver. Sixth, the expert also testified the amount of ecstasy Cooper discarded was inconsistent with personal use. A personal user would typically only possess a half or quarter tablet and no more than one or two tablets. Cooper discarded at least eight tablets. Finally, Cooper was in a high drug crime area at the time he was chased. We therefore conclude there is sufficient evidence to show Cooper possessed both ecstasy and marijuana with the intent to deliver. See *State v. Grant*, 722 N.W.2d 645, 647-48 (Iowa 2006).

**AFFIRMED.**