[Cite as *State v. Powell*, 2010-Ohio-3356.]

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

STATE OF OHIO	:	
	:	Appellate Case No. 23611
Plaintiff-Appellee	:	
	:	Trial Court Case No. 09-CR-953
v.	:	
	:	
ANARIS R. POWELL	:	(Criminal Appeal from
	:	Common Pleas Court)
Defendant-Appellant	:	
	:	

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O P I N I O N

Rendered on the 16th day of July, 2010.

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BROGAN, J.

{¶ 1} Anaris Powell appeals from his conviction of one count of bribery in violation of R.C. 2921.02(A). Powell contends his conviction is based on insufficient evidence. The facts established at trial are not in dispute, the legal result is.

{¶ 2} On March 22, 2009 in the early evening, Dayton Officers Beavers and Wolpert were dispatched to the area of Grand Avenue and Rosedale Drive on a gambling complaint. Officers Beavers and Wolpert responded to the front of the residence at that location in their cruiser, while Officers Locke and Heiser pulled their cruisers into the alley at the back of the residence. Officers Locke and Heiser came over the radio stating that they had observed the individuals shooting dice and that the individuals had spotted them and had fled from the back of the house to the front over the fence.

{¶ 3} Officer Beavers and Wolpert exited their cruiser and ordered the individuals down to the ground as they came over the fence. Powell was one of the individuals. He, along with Derois Jackson, complied with the officers' commands immediately. The third individual, Theron Lewis, tried to jump another fence but was unsuccessful and ultimately complied.

{¶ 4} Officers Beavers placed Powell in this cruiser as Officer Wolpert recovered $600 in U.S. currency and a set of red dice from the flowerbed next to the porch. When Powell ran from the police, he had tried to throw the money and dice on the porch, but they landed in the flowerbed. Officer Wolpert seized the money and dice, and marked and tagged them as evidence.

{¶ 5} The officers advised Powell that the $600 he threw on the ground was going to be confiscated. Powell's response was "man, keep that shit, act like you didn't find no money, don't take me to jail." (Tr. 12.) The officers explained to Powell that that was bribery. Powell repeated, "[G]o ahead and keep that money, [ ] don't take me to jail, we can act like you never found anything, let me go." Officer

Beavers understood Powell's statements as an offer to them to keep the money for themselves so they would act like they didn't find anything and not arrest him.

{¶ 6} Once Powell was booked into the county jail, Detective William Myers interviewed him. After advising Powell of his Miranda rights and obtaining a waiver of rights from Powell, Detective Myers asked him what happened. Powell stated that he had been gambling, that he was taken to jail, and that he was "joking" with the officers about "[t]hem keeping the money and them forgetting about the gambling arrest." When Myers asked Powell what he meant by "joking," Powell said "he did not say anything to the officers, and that, in fact, he had $800 on him instead of the $600." Believing that Powell was accusing the officers of taking $200, Myers asked him if he wanted to file a report with Internal affairs. (Tr. 17.) Powell's response was that he did not want to do that.

{¶ 7} Powell argues that he could not be convicted of bribery because the valuable thing he possessed (the $600) was no longer in his possession when he made his remarks to the police. He argues that he had no capability to induce the police officers to do anything. He contends his prosecution for bribery is merely vindictiveness on the part of the police.

{¶ 8} The State argues that although the police were in possession of the $600 when Powell made his remarks, Powell could still be convicted of bribery.

{¶ 9} The State makes the argument as follows at page four of its brief:

{¶ 10} "If the charge was dismissed or Powell was acquitted or forfeiture proceedings were not successful, the money would have been returned to him. Moreover, the money would not have been seized at all had the officers done what

Powell asked them to do and looked the other way. It would have gone directly into the officers' pockets for their own personal use. There can be no question that an extra $600 in cash is something of value that the officers would have obtained had Powell been able to convince them to 'act like [they] didn't see anything and not take him to jail.' The fact that the officers would have been $600 richer had they agreed not to arrest Powell defeats Powell's argument that he could not have fulfilled the offer."

{¶ 11} R.C. 2921.02(A) states that "[n]o person, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, * * * shall promise, **offer**, or give any valuable thing or valuable benefit."

{¶ 12} We agree with the State that the fact that the police had seized Powell's money does not mean that Powell did not have "something of value" to offer the police officers. Although the police were in physical possession of the $600, Powell was still presumed innocent of any crime and he had the right to contest the officers' seizure of his money. When Powell offered to let the police keep his money and he would keep quiet if they did not arrest him, he committed bribery as defined by R.C. 2921.02(A).

{¶ 13} The relevant inquiry in determining the sufficiency of the evidence is whether any rational factfinder, after viewing the evidence in the light most favorable to the prosecution, could have found the essential elements of the crime proven beyond a reasonable doubt. *State v. Jenks* (1991), 61 Ohio St.3d 259, 273, 574 N.E.2d 492. An appellate court should not disturb the verdict unless it finds that

reasonable minds could not reach the conclusion reached by the trier of fact. Id. Reasonable minds could conclude from the evidence that Powell committed the crime for which he was indicted. The appellant's assignment of error is Overruled. The judgment of the trial court is Affirmed.

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GRADY and FROELICH, JJ., concur.

Copies mailed to:

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