

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TEDDY COPPEDGE,	§	
	§	No. 490, 2004
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware, in and
v.	§	for New Castle County
	§	
THE STATE OF DELAWARE,	§	No. 0308019179
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 14, 2005
Decided: April 26, 2005

Before **STEELE**, Chief Justice, **BERGER** and **RIDGELY**, Justices.

ORDER

This 26th day of April 2005, on consideration of the briefs of the parties, it appears to the Court that:

(1) The defendant-appellant, Teddy Coppedge, appeals from his convictions in the Superior Court following a jury trial on the charges of possession of heroin with the intent to deliver, possession of heroin within 1000 feet of a school and possession of drug paraphernalia. Coppedge raises one argument in support of his direct appeal. He argues that the trial court abused its discretion in failing to sustain his objection to a police officer's statement at trial that embraced an ultimate issue of fact to be decided by the jury. We find no abuse of discretion by the trial court. Accordingly,

we affirm.

(2) On the evening of August 26, 2003, Detectives Leary, Looney and Taylor of the Wilmington Police Department were conducting undercover surveillance for drug activity in the area of Eighth and Pine Streets. Detective Leary was positioned at the corner of Eighth and Pine Streets, and Detectives Looney and Taylor were several blocks away at Eighth and Lombard Streets. During the course of his surveillance, Detective Leary observed a black male (the “third party”) approach Coppedge and engage in a short conversation. Coppedge then walked to a nearby house, entered briefly and returned to the third party, who was waiting on the street. From approximately 100 feet away, Detective Leary observed the third party hand Coppedge money and, in return, Coppedge handed the third party a small unidentified object. The third party and Coppedge then departed company.

(3) Detective Leary then radioed Detective Looney and described what happened along with a physical description of the third party. He instructed Detective Looney to stop and search the third party for drugs. Detectives Looney and Taylor then stopped the third party and discovered a small white glassine bag of off-white power located on the third party’s person. After a field test confirmed that the third party was in possession of heroin, Coppedge was arrested. Detective Leary searched Coppedge at the scene and found four bags of heroin on his person. Later, at the

police station, Coppedge was searched again and found to be in possession of \$208.00.

(4) At trial, Detective Looney was asked to explain his involvement in Coppedge's arrest. Detective Looney responded: "My actual involvement was I took off a black male subject who had purchased the drugs after walking into the area."¹ Defense counsel objected to this testimony and argued that the issue of whether the third party bought the drugs from Coppedge is an ultimate issue for the jury to decide. Defense counsel then requested that the trial court strike Detective Looney's remarks and only allow Detective Looney to testify that he stopped an individual who had drugs on his person as opposed to testifying that he stopped an individual who just purchased drugs. The trial court overruled defense counsel's objection. Coppedge has appealed on this single issue.

(5) This Court reviews evidentiary rulings for an abuse of discretion.² An abuse of discretion occurs when the trial court exceeds the bounds of reason or has ignored recognized rules of law or practice so as to product an unjust result.³

(6) Coppedge contends that Detective Looney's statement should have been excluded from evidence. He maintains that this statement was an inadmissible lay

¹ Transcript of Trial Proceedings on August 19, 2004 at 31.

² *Lilly v. State*, 649 A.2d 1055, 1059 (Del. 1994).

³ *Firestone Tire & Rubber Co. v. Adams*, 541 A.2d 567, 570 (Del. 1988).

opinion pursuant to Delaware Rule of Evidence 701 because (1) the statement was not rationally based on Detective Looney's perception because he never saw Coppedge and the third party interact, (2) the statement was not required to aid the jury's understanding of Detective Looney's testimony and (3) Detective Looney was not qualified as an expert witness. In support of his argument, Coppedge relies on this Court's recent decision in *Lagola*.⁴

(7) Coppedge's analogy to *Lagola* is misplaced because the facts in *Lagola* are distinguishable from this case. *Lagola* involved a motor vehicle accident in which the speed of the defendant's vehicle was described as "the primary contributing circumstance" of the accident.⁵ The police officer who responded to the accident did not witness the accident and did not testify to facts he perceived as a result of his investigation.⁶ In reversing the trial court's admission of this testimony, we noted that it was undisputed that the police officer was not an accident reconstruction expert and the required foundation to admit a lay opinion was not established.⁷ Unlike the police officer in *Lagola*, there is ample evidence in the record here that Detective Looney was qualified to testify as a drug enforcement expert. At trial Detective Looney testified that he had been assigned to the Drug, Organized Crime and Vice Division

⁴ *Lagola v. Thomas*, 2005 Del. LEXIS 51.

⁵ *Id.* at *12.

⁶ *Id.*

⁷ *Id.* at *12-*13.

for seven years and had testified as an expert in more than 60 previous Superior Court trials. In addition, he had completed numerous drug training programs and had made over 600 drug-related arrests. We therefore conclude that the trial court did not abuse its discretion in admitting Detective Looney's testimony over the objection of defense counsel.

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgments of conviction against Teddy Coppedge entered by the Superior Court are AFFIRMED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice