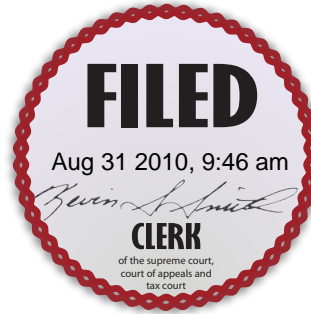


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

GRANTE FICKLIN,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A04-1001-CR-22
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Israel Cruz, Commissioner
Cause No. 49F10-0910-CM-86882

August 31, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Grante Ficklin appeals her conviction of Class A misdemeanor possession of paraphernalia.¹ Because Ficklin’s own statements were sufficient to permit the trial court to infer that Ficklin intended to use the pipe in the future to ingest crack cocaine, we affirm.

FACTS AND PROCEDURAL HISTORY

Indianapolis Metropolitan Police Department Officer Christopher Shaw arrested Ficklin for an active warrant. During a search incident to that arrest, a female police officer discovered a glass pipe in Ficklin’s coat pocket. Officer Shaw believed that pipe was used to smoke crack cocaine, so he secured it in the patrol car. After receiving *Miranda* warnings, Ficklin admitted the item was a crack pipe and asked Officer Shaw “to throw it out so that she wouldn’t get in trouble for it.” (Tr. at 9.) Ficklin also admitted she was addicted to crack cocaine and she had just smoked crack.

The State charged Ficklin with possession of paraphernalia. At trial, Ficklin admitted the pipe was hers. The prosecuting attorney asked her if she “used it to introduce crack cocaine into your body,” (*id.* at 15), and Ficklin responded, “Yes.” (*Id.*) The court found Ficklin guilty.

DISCUSSION AND DECISION

Ficklin contends the evidence is insufficient to support her conviction. When reviewing the sufficiency of the evidence, “we neither reweigh evidence nor judge witness credibility.” *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009). We consider only the evidence and reasonable inferences therefrom that support the judgment, and we affirm if the

¹ Ind. Code § 35-48-4-8.3(b).

record permitted the court to conclude the defendant was guilty beyond a reasonable doubt.

Id.

The State charged Ficklin with possession of paraphernalia pursuant to Ind. Code § 35-48-4-8.3(a)(1), which makes it illegal to possess “a raw material, an instrument, a device, or other object that the person intends to use for: (1) introducing into the person’s body a controlled substance” Ficklin alleges the State failed to prove she intended to use the pipe in the future to ingest crack cocaine.

“Intent is a mental condition. It is impossible to know with certainty the defendant’s intended use or disposition of the contraband. Nevertheless, a determination thereof must be made.” *Dabner v. State*, 258 Ind. 179, 182, 279 N.E.2d 797, 798 (1972). Possession alone is insufficient to demonstrate a defendant’s intent to use the instrument for ingesting controlled substances. *Id.* However, a number of additional circumstances permit a trier of fact to make an inference about the defendant’s intent. *See, e.g., Cooper v. State*, 171 Ind. App. 350, 360, 357 N.E.2d 260, 265 (1976) (evidence of intent was sufficient where the defendant had recent needle marks on his arm, admitted being a narcotics user, admitted a prior narcotics conviction, and possessed an adapted instrument); *and see Dabner*, 258 Ind. at 182, 279 N.E.2d at 798-99 (possession and recent puncture marks on a defendant’s forearm, which indicated recent injections, were sufficient to support an inference of future intent to use the instrument).

Ficklin admitted the pipe was a crack pipe, it was hers, she was a crack addict, she used that pipe to ingest crack, and she had smoked crack just before Officer Shaw arrested

her. Based on those five admissions, a trier of fact could conclude only that Ficklin, had she not been arrested and her pipe seized, would have continued to use that same pipe in the same manner. The evidence is more than sufficient to infer Ficklin intended to use the pipe in the future to ingest crack. *See, e.g., Dabner*, 258 Ind. at 182, 279 N.E.2d at 798-99; *Cooper*, 171 Ind. App. at 360, 357 N.E.2d at 265. Accordingly we affirm.

Affirmed.

ROBB, J., and VAIDIK, J., concur.