

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

OMAR L. BLANDERBEY,

Defendant-Appellant

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UNPUBLISHED

May 9, 1997

No. 195780

Oakland Circuit Court

LC No. 96-144104-FH

Before: Michael J. Kelly, P.J., Wahls, and Gage, JJ.

PER CURIAM.

Defendant was convicted by a jury of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), as a second time, controlled substance offender, MCL 333.7413(2); MSA 14.15(7413)(2). The trial court sentenced defendant to two to forty years' imprisonment. He appeals as of right. We affirm.

Defendant argues on appeal that there was insufficient evidence to convict him. Specifically, defendant argues that the prosecution did not prove beyond a reasonable doubt that he had possession and the intent to deliver the cocaine. We disagree.

At trial, the prosecution presented at least four factors showing that defendant possessed the cocaine. First, defendant was the closest person to the cocaine. Only defendant and one other person were in the basement where the cocaine was located, and the cocaine was located on the side of the basement where defendant was standing. Second, in a line between the cocaine and where the police officer initially saw defendant were a baseball hat, keys, and \$45. Defendant was not wearing a hat at the time, whereas the other person in the basement was wearing a knit cap. In addition, the baseball hat fit defendant. Third, the value of the cocaine, \$140, was such that it is unlikely it would have been left under a table in a basement unattended by its owner. Fourth, defendant was wearing a beeper, which is commonly used by drug dealers, and had \$315 in cash in his pocket at the time of his arrest. Viewing this evidence in the light most favorable to the prosecution, a reasonable jury could find beyond a reasonable doubt that defendant had the right to exercise control of the cocaine and knew that it was present. *People v Wolfe*, 440 Mich 508, 515, 520; 489 NW2d 748 (1992).

As to intent, the quantity of cocaine that was found, seven rocks, was far larger than an average user would maintain at one time. Moreover, no user paraphernalia was found in the basement, on defendant, or on the other person found in the basement. This also suggests that the cocaine was not for personal use. Finally, as mentioned *supra*, defendant was wearing a beeper, which is commonly used by drug dealers, and had \$315 in cash in his pocket at the time of his arrest. Viewing the evidence in the light most favorable to the prosecution, a reasonable jury could infer from these circumstances that defendant intended to deliver the cocaine. *Id.*, p 524.

Accordingly, we find that sufficient evidence was presented for a rational jury to convict defendant of possession with intent to deliver less than fifty grams of cocaine.

Affirmed.

/s/ Michael J. Kelly

/s/ Myron H. Wahls

/s/ Hilda R. Gage