

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY WHITTAKER,

Defendant-Appellant.

UNPUBLISHED

February 16, 1999

No. 206588

Oakland Circuit Court

LC No. 97-151713 FH

Before: Gribbs, P.J., and Saad and P.H. Chamberlain*, JJ.

MEMORANDUM.

Defendant appeals by right his conviction for possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that there was insufficient evidence of possession to support his conviction. We disagree.

When determining whether sufficient evidence has been presented to sustain a conviction, an appellate court must view the evidence in a light most favorable to the prosecution and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

The offense of possession of a controlled substance requires proof that defendant had actual or constructive possession of the substance. *People v Hellenthal*, 186 Mich App 484, 486; 465 NW2d 329 (1990). Possession may be established by evidence that defendant exercised control or had the right to exercise control of the substance and knew it was present. *Id.* Circumstantial evidence and reasonable inferences arising from the evidence are sufficient to establish possession. *Id.*

Police officers arrested defendant while executing a search warrant at 76 Close Street in Pontiac. The premises were known as a smoke house, where people congregated to smoke crack

* Circuit judge, sitting on the Court of Appeals by assignment.

cocaine. Officers testified that they found several rocks of crack cocaine near the spot where defendant was secured. Another person, Janette Williams, was secured nearby, but the drugs were in closer proximity to defendant. Defendant had \$925 in cash in his possession, including five separate bundles of \$125 each, placed in separate pockets.

Viewed in a light most favorable to the prosecution, a rational finder of fact could have found beyond a reasonable doubt that defendant had either actual or constructive possession of the cocaine. *People v Head*, 211 Mich App 205, 210; 535 NW2d 563 (1995).

Affirmed.

/s/ Roman S. Gibbs

/s/ Henry William Saad

/s/ Paul H. Chamberlain