

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAWRENCE MAYS,

Defendant-Appellant.

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UNPUBLISHED

January 16, 2001

No. 221453

Kent Circuit Court

LC No. 98-000543-FH

Before: Wilder, P.J., and Hood and Cavanagh, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, 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). He was sentenced as an habitual offender, third offense, MCL 769.11; MSA 28.1083, to four to twenty-five years' imprisonment. Defendant appeals as of right.

Officer Scott Ranburger was patrolling a high crime area when he observed defendant's vehicle with a missing bumper and defective taillight. The officer noticed that defendant was driving the vehicle, and there was a front seat passenger. Officer Ranburger stopped the vehicle, that was registered to defendant. When he activated his lights, the officer noticed that there were two passengers, one in the front passenger seat and one in the rear passenger seat on the right side of the vehicle. Officer Ranburger observed defendant disappear from the front seat and reappear in the back seat of the vehicle, directly behind the driver's seat. Because the officer had observed defendant driving the vehicle, he asked defendant for his driver's license. Defendant responded that he was not the driver and his license was suspended. Defendant alleged that another individual was the driver, but that individual had fled the vehicle. Officer Richard Atha arrived on the scene to provide assistance to Officer Ranburger. There was a buckle bolted to the floor behind the driver's seat that was accessible to the person seated in the driver's seat or seated in the passenger seat behind the driver. The buckle did not have a plastic cap over it. Inside the buckle hole was a plastic baggie containing approximately twenty-eight rocks of crack cocaine.

Koyya Braadie Taylor testified that she entered the back seat passenger area of the vehicle while her friend, Latoyia Russell, took a seat in the front passenger area. There was no one in the driver's seat. Defendant was in the back seat, and a man named Tyrone was seated in the back seat. Specifically, defendant was seated directly behind the driver's seat, while Tyrone was seated in the middle. Taylor pointed out that a police car went by and turned around. Tyrone

bent down. Taylor could not see exactly what Tyrone did, but he was moving his hands by the floor of the vehicle. Tyrone exited the vehicle by walking over the center console, climbed over Russell, and exited out the front passenger door. Taylor did not see cocaine in the vehicle and did not leave cocaine in the vehicle. Taylor did not see Russell leave anything in the vehicle. Officer Scott Alward was called to impeach the testimony of Taylor. Taylor told Officer Alward that a boy was in the car, and he ran out of the vehicle by crawling over Taylor's lap. Defendant was convicted as charged.

Defendant first argues that the trial court erred in denying his motion for a directed verdict because there was insufficient evidence of *his* possession of the cocaine to support the conviction.<sup>1</sup> We disagree. When reviewing the denial of a motion for a directed verdict, we review the record de novo and examine the evidence presented by the prosecution in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime charged were proved beyond a reasonable doubt. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). In viewing the evidence in the light most favorable to the prosecution, this Court does not weigh the proofs or make credibility determinations, but resolves all conflicts in the evidence in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). A person need not have actual possession of a controlled substance to be convicted of a possession charge. *People v Wolfe*, 440 Mich 508, 519-520; 489 NW2d 748, 441 Mich 1201 (1992). Possession may be actual or constructive, and constructive possession exists when the totality of the circumstances presents a sufficient nexus between a defendant and the contraband. *Id.* at 520-521. Mere proximity to the drugs is insufficient to support a finding of possession. *People v Griffin*, 235 Mich App 27, 35; 597 NW2d 176 (1999).

Viewing the evidence presented by the prosecutor in the light most favorable to the prosecutor reveals that there was sufficient evidence of defendant's possession to support the conviction. The vehicle was registered to defendant. Officer Ranburger drove by the vehicle and observed defendant driving the vehicle. The officer also observed defendant switch places in the vehicle. Cocaine was found in a location that was accessible to defendant from his position in either the front or back seat. Under the totality of the circumstances, there was sufficient evidence to support the conviction. *Wolfe, supra*.

Defendant next argues that the trial court erred in failing to give full credit for defendant's period of pretrial incarceration. We disagree. This Court rejected defendant's argument in *People v Stewart*, 203 Mich App 432, 433-434; 513 NW2d 147 (1994).

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Harold Hood  
/s/ Mark J. Cavanagh

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<sup>1</sup> Defendant does not dispute that the drugs were intended for delivery to another as opposed to possession of the drugs for personal use.