

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KAERKYE EMARYL WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

February 9, 2001

No. 218596

Wayne Circuit Court

LC No. 98-008369

Before: Markey, P.J., and McDonald and K. F. Kelly, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v). He was sentenced as an habitual offender second to two to six years' imprisonment, MCL 769.10; MSA 28.1082. He was tried with his brother, Rocelious Williams, before a single jury. He appeals as of right and we affirm.

Defendant claims the evidence at trial, even viewed in a light most favorable to the prosecution, was insufficient as a matter of law to prove he constructively possessed the quantity of cocaine seized outside the house. We disagree.

In reviewing the sufficiency of the evidence, this Court considers the evidence in the light most favorable to the prosecution and determines whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Noble*, 238 Mich App 647; 608 NW2d 123 (1999). Circumstantial evidence and reasonable inferences that arise therefrom may be sufficient to prove the elements of an offense. *Id.* Intent may be inferred from all the facts and circumstances. *People v Wolford*, 189 Mich App 478, 480; 473 NW2d 767 (1991).

Possession may be either actual or constructive. *People v Sammons*, 191 Mich App 351, 371; 478 NW2d 901 (1991). Circumstantial evidence and reasonable inferences arising from the evidence are sufficient to establish possession. *Id.*

We find the evidence was sufficient to support a finding defendant had actual possession of the cocaine the police seized from the yard. Police Officer Spencer testified he heard the sound of a window being forced open, looked up and saw defendant throw a baggie outside a second floor window. Spencer retrieved the bag and, when he entered the house, identified

defendant as the man who had thrown the bag out of the window. Upon analysis, the baggie was shown to contain 22.43 grams of cocaine.

Viewing the evidence in a light most favorable to the prosecution, we conclude a rational trier of fact could have found defendant actually possessed the cocaine and, when he heard the police coming, threw the baggie out of the bedroom window. The jury found the police officers were more credible than defendant and his family. *People v Daoust*, 228 Mich App 1, 17; 577 NW2d 179 (1998). The evidence was sufficient to prove all of the elements of possession of less than 25 grams of cocaine beyond a reasonable doubt.

Affirmed.

/s/ Jane E. Markey

/s/ Gary R. McDonald

/s/ Kirsten Frank Kelly