

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAWRENCE ALLEN SCOTT,

Defendant-Appellant.

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UNPUBLISHED

July 13, 2001

No. 223174

Berrien Circuit Court

LC No. 99-402013-FH

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of possession with intent to deliver less than fifty grams of cocaine, second or subsequent offense, MCL 333.7401(2)(a)(iv); MCL 333.7413(3), entered after a jury trial. We affirm.

Police officers executed a search warrant on a residence. Defendant and his girlfriend were observed lying on a bed in the northwest bedroom. Defendant rolled off the bed and crouched behind it, with his hands hidden from view. He displayed his hands only after receiving several orders to do so. A search of the area in which defendant was crouched revealed twenty-one rocks of crack cocaine in plastic baggies. A safe in the bedroom contained documents bearing defendant's name, but another address. Defendant told an officer that he lived at the residence with his mother and girlfriend, and that he occupied the northwest bedroom. An officer who testified as an expert in drug trafficking opined that the lack of drug paraphernalia in the residence meant that it was a location from which drugs were sold rather than one in which drugs were used. The jury found defendant guilty as charged.

Defendant states the issue for appellate review as whether the trial court erred by failing to grant his motion for a directed verdict. Defendant made no such motion; therefore, no trial court decision exists to review. The failure to move for a directed verdict does not preclude appellate review of the question whether sufficient evidence was presented to support the conviction. *People v Wolfe*, 440 Mich 508, 516 n 6; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

In reviewing the sufficiency of the evidence, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the

jury's role of determining the weight of the evidence or the credibility of witnesses. *Id.*, 514-515; *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998), modified 462 Mich 415; 615 NW2d 691 (2000). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

To support a conviction of possession with intent to deliver less than fifty grams of cocaine, the prosecution must show: (1) that the defendant knowingly possessed a controlled substance; (2) that the defendant intended to deliver the controlled substance to someone else; (3) that the substance was cocaine, and the defendant knew as much; and (4) that the substance was in a mixture weighing less than fifty grams. CJI2d 12.3; see also *Wolfe*, *supra*, 516-517.

Defendant argues that the evidence did not establish that he had constructive possession of the cocaine found under his bed. We disagree and affirm defendant's conviction. Possession may be actual or constructive. The critical question is whether the defendant had dominion or control over the substance. Mere presence is insufficient. Some additional link between the defendant and the controlled substance must be shown. Circumstantial evidence and reasonable inferences arising from the evidence are sufficient to prove possession. *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998). Intent to deliver can be inferred from the quantity of the controlled substance in the defendant's possession and the way in which the substance was packaged. *Wolfe*, *supra*, 524. The evidence showed that twenty-one individually packaged rocks of crack cocaine were found under the bed in the bedroom defendant occupied in the residence in which he admitted he lived. When defendant crouched behind the bed he moved his hands in the exact area in which the cocaine was discovered. When viewed in a light most favorable to the prosecution, this evidence allowed the jury, as the trier of fact, to find that defendant had at least constructive possession over the cocaine and intended to deliver it to others. *Id.*, 514-515, 524; *Fetterley*, *supra*.

Affirmed.

/s/ Henry William Saad  
/s/ Donald E. Holbrook, Jr.  
/s/ William B. Murphy