

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

DEMETRIUS BRYANT,

Defendant-Appellee.

UNPUBLISHED

July 27, 2001

No. 224033

Wayne Circuit Court

LC No. 97-006290

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

MEMORANDUM.

Plaintiff appeals by right the order granting defendant's motion to quash the information and dismissing charges. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with possession with intent to deliver more than 50 and less than 225 grams of heroin, MCL 333.7401(2)(a)(iii). Evidence at the preliminary examination indicated that a raid was conducted at 15888 Linwood in Detroit, and two plastic bags containing heroin was found in a bedroom dresser drawer. Defendant had been seen at the house the previous day, and bank statements, bank receipts, and credit card checks bearing the 15888 Linwood address and defendant's name were found in the drawer with the heroin. Clothing in the bedroom appeared to be defendant's size. Evidence indicating that other people lived at the address was not preserved by police. The district court bound defendant over for trial. The circuit court granted defendant's motion to quash the information, finding that there was insufficient evidence of possession to support the bindover.

This Court will review a circuit court's decision to grant or deny a motion to quash a felony information de novo to determine if the district court abused its discretion in ordering bindover. *People v Northey*, 231 Mich App 568, 574; 591 NW2d 227 (1998). A district court must bind a defendant over for trial when the prosecutor presents competent evidence constituting probable cause to believe that a felony was committed and that defendant committed that felony. *Id.* A district court's determination that sufficient probable cause exists will not be disturbed unless the determination is wholly unjustified by the record. *Id.*

Probable cause requires a reasonable belief that the evidence presented is consistent with defendant's guilt. *People v Justice (After Remand)*, 454 Mich 334, 343-344; 562 NW2d 652

(1997). Competent evidence that both supports and negates an inference that defendant committed the crime charged raises a factual question that the district court must leave for the factfinder. *People v Neal*, 201 Mich App 650, 655; 506 NW2d 618 (1993).

The district court did not abuse its discretion in binding defendant over for trial. Defendant's presence at the house, combined with the documents found with the drugs is sufficient to establish at least joint and constructive possession. Any dispute as to defendant's possession is properly left for the finder of fact.

Reversed and remanded for trial. We do not retain jurisdiction.

/s/ Kurtis T. Wilder

/s/ Harold Hood

/s/ Richard Allen Griffin