STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED February 26, 2002
v	No. 227634 Bay Circuit Court
CLIFFORD HAMILTON GLENN, Defendant-Appellant.	LC No. 99-001409-FH

Before: Gage, P.J., and Hoekstra and Meter, JJ.

PER CURIAM.

Defendant appeals by right from his convictions by a jury of conspiracy to deliver marijuana, MCL 750.157(a); possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii); and resisting and obstructing a police officer, MCL 750.479. The trial court sentenced him as a third-offense habitual offender, MCL 769.11, to concurrent terms of two to eight years' imprisonment for the conspiracy conviction, two to eight years' imprisonment for the possession conviction, and 1 ½ to 4 years' imprisonment for the resisting and obstructing conviction. We affirm.

Defendant first argues that the prosecutor presented insufficient evidence that he possessed the marijuana at issue in the case, which was seized from a codefendant's vehicle. In reviewing a claim of insufficient evidence, this Court views the evidence in the light most favorable to the prosecutor to determine whether a rational trier of fact could have found all the elements of the offense proven beyond a reasonable doubt. See *People v Petrella*, 424 Mich 221, 268; 380 NW2d 11 (1985).

Actual physical possession is not necessary to convict a defendant for possession of a controlled substance, because a person may be found guilty for constructively possessing the substance. *People v Konrad*, 449 Mich 263, 271; 536 NW2d 517 (1995); *People v Wolfe*, 440 Mich 508, 519-520; 489 NW2d 748, modified on other grounds 441 Mich 1201 (1992). The pivotal question is whether the individual had dominion and control over the controlled substance. *Konrad*, *supra* at 271. "Constructive possession may be found where a defendant knowingly has the power and intention to exercise dominion or control over a substance, either directly or through another person, or if there is proximity to the substance together with indicia of control." *People v Sammons*, 191 Mich App 351, 371; 480 NW2d 103 (1991). Circumstantial evidence and reasonable inferences arising from the evidence may be sufficient to establish

possession. *Id.* at 371. Moreover, a controlled substance may be jointly possessed, either physically or constructively. *Konrad, supra* at 271.

The evidence in the instant case was sufficient to prove beyond a reasonable doubt that defendant constructively possessed the marijuana seized from the codefendant's vehicle. The co-defendant testified that defendant (1) owned the marijuana that was seized from her vehicle, (2) only gave her possession of it so she could sell it to two of her acquaintances, and (3) followed her to make sure that he was paid $1,500 after the marijuana was sold. In light of this testimony, the jury was free to conclude that defendant exercised dominion and control over the marijuana. See *People v Hughes*, 217 Mich App 242, 248; 550 NW2d 871 (1996) (noting that questions of witness credibility are the province of the jury). As noted in *Konrad, supra* at 271, quoting *United States v Manzella*, 791 F2d 1263, 1266 (CA 7, 1986), a defendant "'need not have [the drugs] literally in his hands or on premises that he occupies but must have the right (not the legal right, but the recognized authority in his criminal milieu) to possess them, as the owner of a safe deposit box has legal possession of the contents even though the bank has actual custody.'" The implication of the codefendant's testimony in this case is that defendant could have exercised his ownership rights in the marijuana by simply approaching the codefendant and demanding the drugs. Accordingly, the prosecutor sufficiently proved possession, and reversal is unwarranted.

Defendant additionally argues that the trial court erred by denying his motion to suppress his pretrial statement or statements.[1] We review for clear error a trial court's factual findings with regard to a motion to suppress. *People v Sobczak-Obetts*, 463 Mich 687, 694; 625 NW2d 764 (2001). Questions of law relevant to the motion are reviewed de novo. *Id.*

On appeal, defendant sets forth a litany of case law but makes no attempt to apply this case law to the facts of the instant case. He does not even identify the statement or statements at issue. Accordingly, defendant has abandoned this issue for purposes of appeal. See *People v Canter*, 197 Mich App 550, 565; 496 NW2d 336 (1992). A defendant may not merely announce a position and leave it to this Court to discover and rationalize the basis of the claim. *People v Leonard*, 224 Mich App 569, 588; 569 NW2d 663 (1998). Even if defendant had not abandoned this issue, we would find no error requiring reversal. Indeed, the trial court weighed the credibility of the witnesses and determined that the statements defendant made before being read his rights were unsolicited and were not the result of police questioning. This Court defers to the trial court's factual findings that are based on witness credibility. *People v Sexton (After Remand)*, 461 Mich 746, 752; 609 NW2d 822 (2000).

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[1] In his statement of the issue on appeal, defendant refers to the trial court's treatment of his pretrial "statements." However, in the body of his appellate argument he states that "the trial court clearly erred in finding that [defendant's] *statement* was voluntary and reliable" (emphasis added).

Affirmed.

/s/ Hilda R. Gage
/s/ Joel P. Hoekstra
/s/ Patrick M. Meter