

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANNY RAY GOFF,

Defendant-Appellant.

UNPUBLISHED
February 17, 2004

No. 244408
Oakland Circuit Court
LC No. 01-181809-FH

Before: Schuette, P.J., and Meter and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right his jury convictions for delivery of marijuana, MCL 333.7401(2)(d)(iii), felony-firearm, MCL 750.227b, and felon in possession of a firearm, MCL 750.224f. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that there was insufficient evidence of possession to support the convictions. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Possession of narcotics may be either actual or constructive. *Wolfe, supra*, 519. Evidence that defendant had the right to exercise control of the drugs and knew that they were present is sufficient to establish constructive possession. *People v Konrad*, 449 Mich 263, 271; 536 NW2d 517 (1995). Possession may be proved by circumstantial evidence and reasonable inferences drawn from this evidence. *People v Nunez*, 242 Mich App 610, 615-616; 619 NW2d 550 (2000).

Here, the evidence showed that defendant had access to his father's house while his father was out of town for an extended period of time. Defendant was seen meeting people outside the house and directing them inside. His wife testified that she sold the drugs, and she grudgingly admitted that defendant assisted her. A reasonable juror could infer that defendant had the right to exercise dominion over the drugs. Where the drugs were packaged for resale,

and a scale and a weapon were found nearby, a reasonable juror could find that defendant intended to deliver the drugs. *People v Ray*, 191 Mich App 706, 708; 479 NW2d 1 (1991).

There was also sufficient evidence to support defendant's firearm convictions. To be guilty of felony-firearm, one must carry or possess the firearm when committing or attempting to commit a felony. *People v Burgenmeyer*, 461 Mich 431, 438; 606 NW2d 645 (2000). In a case involving controlled substances as the predicate felony, there must be evidence to allow a jury to reasonably conclude that the drugs and weapons were close enough that the defendant possessed both at the same time. *Id.*, 440. Here, the weapons were found a short distance away from the drugs. A reasonable juror could conclude from the evidence that defendant possessed a firearm.

Affirmed.

/s/ Bill Schuette

/s/ Patrick M. Meter

/s/ Donald S. Owens