

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ALFRED WOOD,

Defendant-Appellant.

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UNPUBLISHED

June 17, 2004

No. 245569

Livingston Circuit Court

LC No. 02-012953-FH

Before: Neff, P.J., and Zahra and Murray, JJ.

MEMORANDUM.

Defendant was convicted by a jury of possession with intent to deliver less than five kilograms or twenty plants of marijuana, MCL 333.7401(2)(d)(iii), and was sentenced to twenty-three to ninety-six months' imprisonment. He appeals as of right. We affirm.

Defendant argues that there was insufficient evidence to establish that he *knowingly* possessed the marijuana. We disagree. In reviewing the sufficiency of the evidence, we view the evidence in a light most favorable to the prosecution to determine whether a rational factfinder could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998). Possession of a controlled substance with intent to deliver consists of (1) the defendant having knowingly possessed a controlled substance, (2) the defendant having intended to deliver it to someone else, and (3) the substance must actually have been a controlled substance. *People v Johnson*, 466 Mich 491, 499-500; 647 NW2d 480 (2002). Defendant's argument implicates the first element, whether he knowingly possessed the marijuana at issue.

Deputy Christopher Schmidt's testimony at trial that defendant denied knowledge of the marijuana and specifically referred to the presence of "weed" before the deputy even told him that he found marijuana in the car defendant had been driving could reasonably have been taken by the jury as establishing that defendant knowingly possessed the marijuana. Defendant suggests that Deputy Schmidt's acknowledgment on cross-examination that the duffle bag containing the marijuana was unzipped when he placed it on the ground established that defendant could have seen the marijuana for the first time at that point. This, defendant asserts, explains why he identified the contraband as being marijuana before the deputy stated what it was. However, Deputy Schmidt testified that he lifted the duffle bag by its straps when he removed it from the trunk and that he did not believe it was laying on the road in such a way that defendant could see inside it. From this, the jury could have reasonably concluded that

defendant could not have seen the marijuana inside the bag and that he had prior knowledge that there was marijuana in the car. Thus, there was sufficient evidence to support a finding that defendant knowingly possessed the marijuana at issue.

We also note that there was sufficient evidence to support a finding that defendant intended to deliver the marijuana. Minimal circumstantial evidence is sufficient to support a finding of intent to deliver a controlled substance. *Fetterley, supra* at 517-518. An intent to deliver can be inferred from the quantity of a controlled substance and the way it is packaged. *Id.* at 518. Deputy Schmidt opined that the amount of marijuana at issue was inconsistent with personal use. The jury could reasonably have determined that defendant's knowing possession of the marijuana in the car, along with the large quantity of the drug, established that he intended to deliver it to others.

Affirmed.

/s/ Janet T. Neff  
/s/ Brian K. Zahra  
/s/ Christopher M. Murray