

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KELLY LEE POWELL,

Defendant-Appellant.

UNPUBLISHED

June 29, 2004

No. 246076

Oakland Circuit Court

LC No. 2002-185792-FH

Before: Griffin, P.J., and Cavanagh and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury conviction of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and operating a motor vehicle without a license, MCL 257.904. We affirm.

Defendant's sole issue on appeal is a challenge to the sufficiency of the evidence to sustain his conviction for drug possession. At trial, defendant claimed that the police put the cocaine into his jacket while he was being searched. He argued that the jury should have inferred that he did not possess any drugs from the fact that he knew the police were observing him, and he had time to discard any drugs he might have possessed.

This Court reviews the sufficiency of evidence de novo, considering the evidence in the light most favorable to the prosecution to decide whether there was sufficient evidence to permit a rational jury to conclude that the elements of the crime were proved beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999). Here, two police officers testified that the cocaine they discovered was in defendant's possession before they searched him. A reasonable juror could weigh the testimony offered by the prosecution against that of defendant and reach a conclusion, which this Court will not disturb. See *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Karen M. Fort Hood