

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TROY STEVE JACQUES,

Defendant-Appellant.

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UNPUBLISHED

October 30, 2007

No. 270882

Oakland Circuit Court

LC No. 2004-197790-FH

Before: Zahra, P.J., and White and O'Connell, JJ.

PER CURIAM.

Defendant was convicted of possession with intent to deliver between 50 and 449 grams of cocaine, MCL 333.7401(2)(a)(iii). Defendant was sentenced to 51 months to 40 years in prison for this conviction. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole argument on appeal is that there is insufficient evidence to support his conviction. We disagree. This Court reviews sufficiency of the evidence claims de novo. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). "[W]hen determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier 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, amended 441 Mich 1201 (1992).

Defendant contends that the prosecutor failed to prove beyond a reasonable doubt that defendant possessed and intended to deliver cocaine. Defendant argues that to constructively possess cocaine, there must be proof of an additional connection between defendant and the contraband other than defendant's presence where the drugs were found. Defendant argues that he was not present in the home when the cocaine was found. He also points to his girlfriend's testimony that he did not live there and the fact that other people had visited the home. Defendant claimed that he did not know the cocaine was in his coat, and no fingerprints connected defendant directly to the cocaine. Defendant also argues that his denial of knowledge of the cocaine and the absence of tally sheets, large sums of cash, or firearms prove that he did not intend to deliver cocaine. Consequently, defendant argues that, without sufficient evidence of possession and intent to deliver cocaine, the elements required for this offense were not established. We disagree.

Possession includes actual and constructive possession. *Wolfe, supra* at 519-520. “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; 478 NW2d 901 (1991). The Narcotics Enforcement Team executed a residential search warrant and collected evidence from the computer room, living room, kitchen and master bedroom. In the computer room, Lieutenant Fitzgerald found a leather coat draped over the door with a silver digital scale in the left sleeve. At closer inspection, Officer Stone also located approximately 127 grams of cocaine in a sleeve. Defendant admitted that he owned this coat. Defendant told police that he and his girlfriend lived alone in the home where the drugs were found. Defendant could come and go freely with his house key. He stored personal belongings, such as business checks, letters, bills, a vehicle registration, clothing and shoes, in the computer room. Therefore, the jury reasonably inferred his knowledge of the cocaine inside the coat and his right to exercise control over the cocaine.

In addition to defendant’s inferable proximity to the contraband, several other connections between defendant and the cocaine were proven in the trial court. See *People v Hardiman*, 466 Mich 417, 422; 646 NW2d 158 (2002). On the phone, defendant told Detective Dare he was leaving Pontiac because he knew he was in trouble. He also stated, “I’m f---ed and I’m not getting out for a long time” and requested a prosecutor so he could do his time and get it over with. Based on the totality of the circumstances, there was sufficient evidence for the jury to find beyond a reasonable doubt that defendant knowingly possessed the cocaine.

Intent to deliver can be inferred from “the quantity of narcotics in a defendant’s possession, from the way in which those narcotics are packaged, and from other circumstances surrounding the arrest.” *Wolfe, supra* at 524. Here, the Narcotics Enforcement Team found a large quantity of cocaine with a scale in close proximity, packaging materials, and no paraphernalia indicating personal use. Lieutenant Fitzgerald and Detective Dare testified that these factors indicated drug trafficking rather than personal use. Also, defendant told Detective Dare and Officer Stone that he sold drugs on occasion and he agreed that this large quantity of cocaine would usually not be for personal use. Under the circumstances, the prosecutor presented sufficient evidence for the jury to find beyond a reasonable doubt that defendant intended to deliver the cocaine. *Id.* at 515.

Affirmed.

/s/ Brian K. Zahra  
/s/ Helene N. White  
/s/ Peter D. O’Connell