

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WAYLI J. MADISON,

Defendant-Appellant.

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UNPUBLISHED

April 22, 2008

No. 276996

Wayne Circuit Court

LC No. 06-005029-02

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

PER CURIAM.

Following a jury trial, defendant was convicted of possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv). Defendant was sentenced to nine months in jail and four years' probation. Defendant appeals as of right. We affirm. We decide this case without oral argument under MCR 7.214(E).

**I. FACTS**

On March 30, 2006, narcotics enforcement supervisor Sergeant Andrew White was conducting surveillance of a house at Harmon and Oakland Streets in Detroit. White, watching through binoculars, observed two suspected narcotic transactions, one made by co-defendant Brent Montgomery and the other by defendant. In the second transaction, White observed a yellow checker cab pull up to the location and the passenger get out of the car. The passenger spoke with defendant, who took money, retrieved an object from the south side of the street, and gave the retrieved object to the passenger. White then gave a description of defendants to his team, who were ordered on scene to investigate and arrest defendants. Before the team arrived, a Wayne County Sheriff drove down Oakland. Seeing the sheriff, defendants went into the house and came back out once the sheriff had passed. Once the team arrived, White, through his radio, directed Officer Michael Bryant to the location where defendants retrieved the objects; Bryant located a sandwich bag with 25 individual Ziploc sandwich bags filled with either cocaine or crack cocaine there.

Defendant is the CEO and owner of a music label that promotes eight different artists. On March 30, 2006, defendant said he was "just visiting" the Harmon Street house, which was owned by a family friend. Defendant was speaking with another guest at the house when the raid vans approached. Both vans rode past the scene, but the first van returned within a minute. The first van stopped and the officers arrested a young man working on his car. The second van

returned ten minutes later and pulled up to where defendant and the other guest were standing. The officers got out of the second van, ordered defendant to approach, searched and arrested him. When defendant was arrested, he had \$3 on his person. Defendant maintains he is not engaged in any illegal activities, that he and Montgomery never sold anybody drugs, and they are not in the drug trade together. Defendant denies selling drugs to a person who approached the corner of Oakland and Harmon Streets in a taxi.

Defendant argues that, because he was not apprehended at the location of the narcotics, there was insufficient evidence to prove that he had the power and intention to exercise dominion over the narcotics. We disagree.

## II. STANDARD OF REVIEW

This Court reviews challenges to the sufficiency of the evidence *de novo*. *People v Osantowski*, 274 Mich App 593, 612-613; 736 NW2d 289 (2007). “In reviewing the sufficiency of the evidence in a criminal case, this Court must review the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001).

## III. ANALYSIS

In Michigan, to be convicted of possession with intent to deliver a controlled substance less than 50 grams, the prosecution must prove that the defendant possessed the specific intent to deliver the statutory minimum as charged to another person. *People v Hunter*, 466 Mich 1, 6-7; 643 NW2d 218 (2002). A defendant need not have actual physical possession of a controlled substance to be guilty of possessing it. Possession may be either actual or constructive. *People v Wolfe*, 440 Mich 508, 520-521; 489 NW2d 748, amended 441 Mich 1201 (1992). “Constructive possession exists when the totality of the circumstances indicates a sufficient nexus between defendant and the contraband.” *People v Johnson*, 466 Mich 491, 500; 647 NW2d 480 (2002).

Here, a police officer witnessed defendant conduct a narcotics transaction with the passenger of a taxicab, where defendant took money, retrieved narcotics from an empty field, and gave the narcotics to the passenger. An officer found the narcotics at the location where defendant retrieved his stash. Considering this testimony in the light most favorable to the prosecution, a rational trier of fact could find defendant guilty of possession with intent to deliver less than 50 grams of cocaine, and the verdict is supported by the evidence.

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Donald S. Owens  
/s/ Bill Schuette