

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAMAR BURTRELL WRIGHT,

Defendant-Appellant.

UNPUBLISHED

June 3, 2008

No. 278190

Genesee Circuit Court

LC No. 06-017873-FH

Before: Davis, P.J., and Murray and Beckering, JJ.

PER CURIAM.

Defendant appeals as of right from a circuit court order revoking his probation and sentencing him to a prison term of 10 to 30 years for his conviction of possession with intent to deliver 50 or more but less than 450 grams of cocaine, MCL 333.7401(2)(a)(iii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court erred in finding that he violated the term of his probation, which prohibited him from violating criminal laws and possessing controlled substances unless prescribed by a physician. Defendant contends that the evidence was insufficient to establish his constructive possession of cocaine and marijuana.

“[E]vidence is sufficient to sustain a conviction of probation violation if, viewed in the light most favorable to the prosecution, it would enable a rational trier of fact to conclude that the essential elements of the charge were proven by a preponderance of the evidence.” *People v Ison*, 132 Mich App 61, 66; 346 NW2d 894 (1984).

The police discovered approximately two grams of cocaine when they executed a search warrant at a residence on East Baltimore. The cocaine was in plain view on a scale on the counter in the kitchen. The police also found marijuana in a bedroom that a female resident claimed that she shared with defendant. Defendant was not present in the residence at the time the police conducted the search. However, he had a key to its door, and his tether had been linked to that residence for over a month. The residence was also the site where Lt. Terence Green had made two controlled purchases of crack cocaine from defendant. The evidence was sufficient to support an inference that defendant constructively possessed controlled substances, i.e., that he had the right to exercise control over the substances and had knowledge of their presence. *People v Hardiman*, 466 Mich 417, 421 n 4; 646 NW2d 158 (2002); *People v*

McGhee, 268 Mich App 600, 623; 709 NW2d 595 (2005). The trial court did not err in finding by a preponderance of the evidence that defendant violated the terms of his probation.

Affirmed.

/s/ Alton T. Davis

/s/ Christopher M. Murray

/s/ Jane M. Beckering