

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHRISTOPHER ALAN TURPEN,

Defendant-Appellant.

UNPUBLISHED
September 27, 2012

No. 305386
Jackson Circuit Court
LC No. 10-005952-FH

Before: SHAPIRO, P.J., and GLEICHER and RONAYNE KRAUSE, JJ.

PER CURIAM.

Defendant was convicted, following a bench trial, of possession of marijuana, MCL 333.7403(d), and possession of a controlled substance less than twenty-five grams, MCL 333.7403(2)(a)(v). Pursuant to MCL 769.12, the trial court sentenced defendant as an habitual offender, fourth offense, to concurrent sentences of 365 days in jail for possession of marijuana and 30 to 180 months' imprisonment for possession of a controlled substance. Defendant appeals as of right. We affirm.

Department of Natural Resource officers arrested defendant at Portage Lake Beach in Waterloo Township, Michigan, for being a disorderly person. Officers searched the bag defendant was carrying and found: (1) defendant's wallet and identification; (2) a plastic bag with a small amount of marijuana; (3) two pre-rolled marijuana cigarettes; and (4) a prescription pill bottle in the name of a third party with different types of pills inside. One of the pills inside the bottle was Ritalin, a Schedule II controlled substance. MCL 333.7213.

Defendant argues that the prosecution did not introduce sufficient evidence from which a rational trier of fact could conclude beyond a reasonable doubt that the possession of the Ritalin was done "knowingly or intentionally" as required by MCL 333.7403(1). This Court reviews sufficiency-of-the-evidence appeals de novo and "reviews the evidence in the light most favorable to the prosecution." *People v Harverson*, 291 Mich App 171, 175; 804 NW2d 757 (2010). The prosecution must introduce sufficient evidence for a rational trier of fact to find that the essential elements of the crime were proven beyond a reasonable doubt. *Id.* "[T]he prosecution need not negate every reasonable theory consistent with the defendant's innocence[.]" *People v Hardiman*, 466 Mich 417, 424; 646 NW2d 158 (2002). However, "[c]ircumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime." *People v Allen*, 201 Mich App 98, 100; 505

NW2d 869 (1993). Further, “because it can be difficult to prove a defendant’s state of mind on issues such as knowledge and intent, minimal circumstantial evidence will suffice to establish the defendant’s state of mind, which can be inferred from all the evidence presented.” *People v Kanaan*, 278 Mich App 594, 622; 751 NW2d 57 (2008).

Possession can be actual or constructive. *People v McKinney*, 258 Mich App 157, 166; 670 NW2d 254 (2003). Possession “requires a showing of dominion or right of control over the drug with knowledge of its presence and character.” *Id.* at 165 (quotation marks omitted). Defendant’s knowledge can be inferred from the fact that the pill was found in his possession in a bag with his identification. Similarly, in *Hardiman*, circumstantial evidence that a female defendant lived part-time at a residence was sufficient for the finder of fact to reasonably infer that she was in knowing possession of drugs found in a dress at the residence. *Hardiman*, 466 Mich at 423. Additionally, the finder of fact could infer from defendant’s contemporaneous possession of another illegal drug—marijuana—that he was also aware of the Ritalin, which was in a pill bottle containing more than one type of pill. Similar to *People v McCarver*, 403 Mich 376, 380; 269 NW2d 186 (1978), where the jury could infer from his “like act” of possessing marijuana that there was no mistake about the identity of the amphetamines he also possessed, the evidence in our case is sufficient to infer that there is no mistake that defendant knew he possessed Ritalin.

We hold, therefore, that there is sufficient evidence to support defendant’s conviction based on the reasonable inferences that could be drawn from the circumstantial evidence presented.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Elizabeth L. Gleicher
/s/ Amy Ronayne Krause