

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

D.S.,

Appellant.

No. 38908-8-II

UNPUBLISHED OPINION

Armstrong, J. — D.S. appeals his adjudication for second degree unlawful possession of a firearm. He argues that the State failed to present sufficient evidence of possession and that the juvenile court erred in not suspending his term of confinement. We affirm.¹

In finding D.S. guilty, the juvenile court made the following pertinent finding:

On October 1, 2008, the police served a search warrant at [D.S.]’s residence in Lakewood, Washington. During the search of the respondent’s residence, the police found in the respondent’s bedroom a loaded .357 caliber revolver in a plastic laundry tote covered by clothing next to the respondent’s bed and closet. The .357 revolver had six bullets in it. The police also found in the respondent’s bedroom, a .38 special firearm shell casing. In the respondent’s bedroom closet, the police found five 12 gauge shotgun shells in a shoe box on the closet floor. The respondent’s mother told the police which bedroom belonged to the respondent and the police also found the respondent’s personal belongings in his bedroom, which included his identification and a letter. The respondent had dominion and control over his bedroom and dominion and control over the items in his bedroom on October 1, 2008.

Clerk’s Papers at 64.

The juvenile court initially imposed an Option B Suspended Disposition Alternative, in which it committed D.S. to the Juvenile Rehabilitation Administration (JRA) for 15 to 36 weeks,

¹ A commissioner of this court initially considered D.S.’s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

with credit for 48 days served, and then suspended the remainder of the commitment on conditions. However, after the State informed the court that D.S.'s crime made him ineligible for an Option B suspended disposition, the court resentenced D.S. and committed him to JRA for 15 to 36 weeks, with credit for 50 days served. He appeals.

First, D.S. argues that the State failed to present sufficient evidence that he possessed the .357 caliber revolver. We review a claim of insufficient evidence for whether “any rational trier of fact could have found the essential elements of the charged crime beyond a reasonable doubt.” *State v. Yarbrough*, 151 Wn. App. 66, 96, 210 P.3d 1029 (2009) (citing *State v. Rempel*, 114 Wn.2d 77, 82, 785 P.2d 1134 (1990)). A sufficiency challenge admits the truth of the State’s evidence and all reasonable inferences therefrom. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254 (1980). Where a defendant has dominion and control over the premises where an item is found, a rebuttable presumption is formed that the defendant has dominion and control over, and therefore constructive possession of, the item. *State v. Summers*, 107 Wn. App. 373, 388-89, 28 P.3d 780 (2001). D.S. argues that because there was no door to his bedroom and because other young men had been in the bedroom, the State did not prove that he had dominion and control over the bedroom. However, the State presented evidence that the mother identified the room as D.S.’s bedroom and that the bedroom contained items belonging to D.S. Dominion and control over premises need not be exclusive. *State v. Wood*, 45 Wn. App. 299, 312, 725 P.2d 435 (1986). A rational trier of fact could find that D.S. had dominion and control over his bedroom and had dominion and control over the firearm found in his bedroom. The State presented sufficient evidence.

Second, D.S. argues that the juvenile court erred when it changed his disposition from an Option B Suspended Disposition Alternative to a commitment to JRA. However, under RCW 13.40.0357, Option B(3)(c), a juvenile is ineligible for a suspended disposition if he has been “[o]rdered to serve a disposition for a firearm violation under RCW 13.40.193.” RCW 13.40.193(1) applies to juveniles having been found to be in possession of a firearm in violation of RCW 9.41.040(2)(a)(iii). And RCW 9.41.040(2)(a)(iii) defines second degree unlawful possession of a firearm by a juvenile. Because the juvenile court found D.S. had committed that offense, it did not err in concluding that he was not eligible for an Option B suspended disposition.

We affirm.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record. RCW 2.06.040.

Armstrong, J.

We concur:

Quinn-Brintnall, J.

Van Deren, C.J.