IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

STEVE W. MCCASLIN,
Appellant.

No. 2 CA-CR 2015-0340
Filed May 18, 2016

Appeal from the Superior Court in Pinal County
No. S1100CR201402144
The Honorable Dwight P. Callahan, Judge Pro Tempore

AFFIRMED

COUNSEL

Mark Brnovich, Arizona Attorney General
Joseph T. Maziarz, Section Chief Counsel, Phoenix
By Amy Pignatella Cain, Assistant Attorney General, Tucson
Counsel for Appellee

Rosemary Gordon Pánuco, Tucson
Counsel for Appellant

MEMORANDUM DECISION

Judge Miller authored the decision of the Court, in which Presiding Judge Vásquez and Chief Judge Eckerstrom concurred.

M I L L E R, Judge:

¶1 After a jury trial, Steve McCaslin was convicted of possession of a dangerous drug and placed on three years' supervised probation. He argues the trial court erred by denying his motion for judgment of acquittal under Rule 20(a), Ariz. R. Crim. P. Because there was sufficient evidence to support the conviction, we affirm.

Factual and Procedural Background

¶2 "We view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the conviction[]." *State v. Powers*, 200 Ariz. 123, ¶ 2, 23 P.3d 668, 669 (App. 2001). In December 2013, a Superior Police Department sergeant saw McCaslin, who the sergeant believed had a suspended driver's license based on their prior interactions, get into a car and begin driving. The sergeant contacted dispatch and confirmed that McCaslin's license was in fact suspended, activated his emergency lights, and stopped the car.

¶3 The sergeant testified at trial that he had asked McCaslin if he was aware his license was suspended, and McCaslin had admitted he was. The sergeant instructed him to exit the vehicle, observing that McCaslin was sitting on his right hand. The sergeant repeatedly directed McCaslin to get out of the car and asked him what was in his hand, but McCaslin did not exit, reply, or reveal what was in his hand. When the sergeant successfully removed McCaslin from the vehicle, McCaslin kept his hand clenched. The sergeant again asked what he had in his hand. When the sergeant took hold of McCaslin's arm, McCaslin dropped a small plastic bag containing what appeared to be methamphetamine. The sergeant picked up the bag and asked McCaslin what it was.

McCaslin said he did not know what it was, adding that it was not his. The sergeant testified he had responded, "'Well, . . . you were trying to hide it.'" McCaslin admitted he had been trying to hide it, but again denied it was his. The sergeant arrested McCaslin for driving on a suspended license and suspicion of methamphetamine possession. Later testing confirmed the bag contained seventy-one milligrams of methamphetamine.

¶4 McCaslin was charged with possession of a dangerous drug,[1] in violation of A.R.S. § 13-3407(A)(1). *See also* A.R.S. § 13-3401(6)(c)(xxxviii) (listing methamphetamine as a dangerous drug). McCaslin's defense at trial was that the bag of methamphetamine belonged to J.G., a man who had been driving that car the day before and who had a prior conviction for possession of methamphetamine. McCaslin testified the bag must have stuck to his leg as he was unfastening his seat belt in order to get out of the car, and said he did not know it contained methamphetamine. He was convicted and appealed. We have jurisdiction pursuant to A.R.S. §§ 13-4031 and 13-4033(A)(1).

Analysis

¶5 McCaslin argues there was insufficient evidence that he knew the bag contained methamphetamine. Our review is de novo. *State v. West*, 226 Ariz. 559, ¶ 15, 250 P.3d 1188, 1191 (2011). We will affirm if the record contains "substantial evidence to warrant a conviction," Ariz. R. Crim. P. 20(a), that is, "'such proof that reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt,'" *West*, 226 Ariz. 559, ¶ 16, 250 P.3d at 1191, *quoting State v. Mathers*, 165 Ariz. 64, 67, 796 P.2d 866, 869 (1990). "'[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Id.* ¶ 16, *quoting Mathers*, 165 Ariz. at 66, 796 P.2d at 868;

[1] McCaslin was also charged with possession of drug paraphernalia based on the bag, but that charge was dismissed before trial.

accord State v. Arredondo, 155 Ariz. 314, 316, 746 P.2d 484, 486 (1987) (court will reverse only where it appears that "upon no hypothesis whatsoever is there sufficient evidence" to support jury's conclusion).

¶6 The sergeant testified McCaslin had the bag in his clenched hand right after getting out of the car, which a reasonable juror could conclude is sufficient to establish possession. Testimony from a crime laboratory technician was sufficient for a reasonable juror to conclude the substance in the bag was methamphetamine. Moreover, McCaslin never suggested otherwise. And McCaslin admitted to the sergeant that he had tried to conceal the bag. From this fact, a reasonable juror could infer McCaslin knew the bag contained contraband. *See, e.g.*, *State v. Van Alcorn*, 136 Ariz. 215, 218, 665 P.2d 97, 100 (App. 1983) (hiding evidence may indicate consciousness of guilt); *see also State v. Bible*, 175 Ariz. 549, 592, 858 P.2d 1152, 1195 (1993) (evidence of concealment of crime "usually constitutes an admission by conduct").

¶7 McCaslin emphasizes other evidence tending to show the bag belonged to J.G. and he did not know its contents. But it is the responsibility of the jury, not this court, to weigh the evidence. *See, e.g.*, *State v. Williams*, 209 Ariz. 228, ¶ 6, 99 P.3d 43, 46 (App. 2004). Where reasonable minds can differ on the inferences to be drawn from the evidence, the trial court has no discretion to enter a judgment of acquittal and must submit the case to the jury. *State v. Landrigan*, 176 Ariz. 1, 4, 859 P.2d 111, 114 (1993). Because the evidence was sufficient for a rational trier of fact to find McCaslin knowingly possessed methamphetamine beyond a reasonable doubt, the court did not err in denying his Rule 20(a) motion.

Disposition

¶8 We affirm McCaslin's conviction and sentence.