ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
WENDELL L. GRIFFEN, JUDGE

DIVISION II

CACR06-271

November 29, 2006

ROY REED APPELLANT	AN APPEAL FROM JEFFERSON COUNTY CIRCUIT COURT [NO. CR-2003-516-2]
V.	HON. JODI RAINES DENNIS, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

On November 29, 2005, a Jefferson County jury found Roy Reed guilty of possession of a controlled substance, manufacturing a controlled substance, and possession of drug paraphernalia with intent to manufacture methamphetamine and sentenced him to a thirty-year term in the Arkansas Department of Correction. Appellant challenges the sufficiency of the evidence to support the conviction for possession of drug paraphernalia with intent to manufacture methamphetamine. We affirm.[1]

[1]In the conclusion of his brief, appellant also asks this court to reverse his conviction for manufacturing a controlled substance and to modify the sentence imposed for his conviction for possession of a controlled substance. As the State notes, however, appellant made no separate argument regarding these charges. We do not consider arguments that present no citation to authority or convincing argument. *Kelly v. State*, 350 Ark. 238, 85 S.W.3d 893 (2002).

On May 14, 2003, Sergeant Carroll Sirmon of the McGehee Police Department was informed that a person had purchased a large quantity of ephedrine pills, which are commonly used in manufacturing methamphetamine, at a local store. When he arrived at the store, Stacy Shelton was sitting in the rear of another officer's car. Shelton later gave Sirmon information concerning a methamphetamine lab in Jefferson County. At trial, Shelton testified that he was buying the pills for appellant and that he had seen appellant and another individual, Ryan Henley, cook "dope" behind appellant's home. Officers executed a search warrant at 6405 Highway 79 South in Pine Bluff, and officers brought Shelton with them, who identified the residence and told the officers to look for a big brown box. The residence was described as "an isolated area of Highway 79 without any close neighbors." Appellant was the only person at the residence. A set of digital scales, commonly used to weigh controlled substances, was seized from the home. Officers seized .0949 grams of methamphetamine from appellant's person. Several pieces of burnt foil and baggies were found in a camper behind the residence. Officers found a large plastic box in the thicket forty yards behind appellant's residence, and items used in manufacturing methamphetamine were found inside the box. Officers attempted to take fingerprints but were unable to find any; however, rubber gloves were found. A lens with Henley's name on it was found inside the camper. Evidence presented at trial also showed that appellant assessed his personal property at 6405 Highway 79 South in 2003.

At the close of the State's case, appellant moved for directed verdict. Regarding the charge of possession of drug paraphernalia with intent to manufacture, he argued that the

State failed to prove that he had care, custody, and control of the drug paraphernalia found at the scene. The court denied the motion, and appellant rested without presenting a case. The jury later found appellant guilty of possession of a controlled substance, manufacturing a controlled substance, and possession of drug paraphernalia with intent to manufacture methamphetamine. Appellant received concurrent sentences of eight years, thirty years, and eight years, respectively, in the Arkansas Department of Correction.

Appellant argues that the trial court erred in denying his motion for directed verdict on the charge of possession of drug paraphernalia with intent to manufacture. He contends that the State presented insufficient evidence to show that he exercised care, custody, and control of the methamphetamine lab found on his property.

A motion for directed verdict is a challenge to the sufficiency of the evidence. *Hunt v. State*, 354 Ark. 682, 128 S.W.3d 820 (2003). We review the evidence in the light most favorable to the State. *Baughman v. State*, 353 Ark. 1, 110 S.W.3d 740 (2003). The test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, direct or circumstantial. *Id.* Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture. *Id.* Only evidence supporting the verdict will be considered. *Id.* Circumstantial evidence may provide a basis to support a conviction, but it must be consistent with the defendant's guilt and inconsistent with any other reasonable conclusion. *Wilson v. State*, 365 Ark. 664, — S.W.3d — (2006). Whether the evidence excludes every other hypothesis is a question for the jury. *Id.*

In constructive possession cases, the State need not prove that the accused physically possessed the contraband in order to sustain a conviction for possession of a controlled substance if the location of the contraband was such that it could be said to be under the dominion and control of the accused. *McKenzie v. State*, 362 Ark. 257, — S.W.3d — (2005). When seeking to prove constructive possession, the State must establish (1) that the accused exercised care, control, and management over the contraband, and (2) that the accused knew the matter possessed was contraband. *Fitting v. State*, 94 Ark. App. 283, — S.W.3d — (2006). Control can be inferred from the circumstances, such as the proximity of the contraband to the accused, the fact that it is in plain view, and the ownership of the property where the contraband is found. *McKenzie v. State*, *supra*. Constructive possession can be implied when the controlled substance is in the joint control of the accused and another. *Id.* Joint occupancy, though, is not sufficient in itself to establish possession or joint possession. *Id.* The State must show additional facts and circumstances indicating the accused's knowledge and control of the contraband. *Id.*

First, we note that this case does not involve a joint-occupancy situation. Except for the lens bearing Henley's name found inside the camper, there is no evidence that any other person was occupying appellant's property. If the State is proving a case through constructive possession of contraband by the occupant of a dwelling, it is not required in the first instance to disprove joint occupancy. *Osborne v. State*, 278 Ark. 45, 643 S.W.2d 251 (1982). Evidence that an item belonging to another person was found on the premises, by itself, is insufficient to invoke a joint-occupancy analysis. Accordingly, the State needed

only to prove that appellant exercised care, control, and management over the contraband.

The evidence of appellant's dominion and control over the drug paraphernalia is similar to the dominion and control exercised in *George v. State*, 356 Ark. 345, 151 S.W.3d 770 (2004). There, methamphetamine was found in appellant's shed and in a vehicle parked on the appellant's property. Further, a police officer testified that he saw the appellant exit the shed prior to the drugs being discovered, and the appellant admitted that he had a drug problem. The supreme court held that the State established constructive possession of the methamphetamine in that case. Similarly, the police here found drug paraphernalia inside appellant's residence, inside the camper behind his residence, and in the thicket forty feet from his residence. While there is no testimony that appellant had come from those areas or that appellant admitted to having a drug problem, there was testimony that appellant was a methamphetamine cook, that methamphetamine was found on appellant's person, and that digital scales were found in appellant's residence. As for the items behind his home, appellant's residence was described as "isolated" and "without any close neighbors," which along with Shelton's statement that appellant was a methamphetamine cook support a reasonable inference that the items found in the thicket behind appellant's home belonged to appellant.

The State presented sufficient evidence to support a finding that appellant constructively possessed the items found in his home, in the camper, and in the thicket behind his home. We affirm.

PITTMAN, C.J., and GLOVER, J., agree.