

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS COOPER,	§
	§
Defendant Below,	§
Appellant,	§ No. 607, 1999
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware in and
STATE OF DELAWARE,	§ for New Castle County
	§ I.D. No. 9512013420
Plaintiff Below,	§
Appellee.	§

Submitted: December 12, 2000

Decided: December 19, 2000

Before WALSH, HOLLAND, and BERGER, Justices.

O R D E R

This 19<sup>th</sup> day of December 2000, upon consideration of the briefs of the parties, it appears to the Court that:

(1) In this appeal from the Superior Court the appellant alleges two errors: failure of the Superior Court to give a proper jury instruction with respect to constructive possession of drugs and refusal of the court to grant a motion for dismissal at the conclusion of the State's case.

(2) With respect to the appellant's attack on the court's jury instruction, we note that the appellant specifically accepted the court's proposed instruction on possession which was fashioned to accommodate appellant's concern. Under the

circumstances any objection to the correctness of that instruction is deemed waived. *See* Super. Ct. Crim. R. 30; *see also* *Goddard v. State*, Del. Supr., 382 A.2d 238, 242 (1977).

(3) We further conclude that the Superior Court correctly denied the appellant's motion to dismiss at the conclusion of the State's case given the inferences attendant upon the State's evidence, direct and circumstantial, at that juncture of the proceeding. *See* *Dixon v. State*, Del. Supr., 567 A.2d 854, 857 (1989).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

AFFIRMED.

BY THE COURT:

s/Joseph T. Walsh  
Justice