

**STATE OF LOUISIANA**

\*

**NO. 2004-KA-0248**

**VERSUS**

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**COURT OF APPEAL**

**RONALD C. JOSEPH**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 434-303, SECTION "K"  
Honorable Arthur Hunter, Judge

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**CHIEF JUDGE JOAN BERNARD ARMSTRONG**

\* \* \* \* \*

(Court composed of Chief Judge Joan Bernard Armstrong, Judge Patricia Rivet Murray and Judge Michael E. Kirby)

**EDDIE J. JORDAN, JR.**, DISTRICT ATTORNEY  
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**AFFIRMED.**

On October 25, 2002, the State filed a bill of information charging Ronald C. Joseph with distribution of cocaine in violation of La. R.S. 40:967 (B). At arraignment on November 8, 2002, he pleaded not guilty. After a hearing on December 17, 2002, the trial court found probable cause to bind the defendant over for trial and denied the motion to suppress the evidence. The defendant elected a bench trial and was found guilty on February 11, 2003 of the responsive verdict of possession of cocaine. The State filed a multiple bill charging the defendant as a second offender, and he pleaded guilty to the bill. On May 7, 2003, he was sentenced to serve thirty months in the DOC. The court recommended Mr. Joseph be placed in Boot Camp. He was granted an out-of-time appeal on September 9, 2003.

At trial, Sergeant Mike Roussel testified that in the evening of October 15, 2002, he set up a surveillance in the 2200 block of Abundance Street as a result of citizen complaints concerning narcotics activity in that area. He first noticed a white woman walk into the block. She stopped to talk to Damien Delatte who directed her to a dark walkway between two abandoned four-plexes. The defendant then walked out of the shadowed alley, spoke to the woman, handed her a small object, and received what appeared to be currency in return. The woman walked away. Sergeant

Roussel called one of his takedown units to apprehend her. She was stopped in the 3000 block of Elysian Fields. She discarded a white rock when an officer approached her. The sergeant then directed another unit to apprehend the men involved. The defendant, who left the scene in an automobile, was arrested on the Interstate 610 near the Franklin Avenue exit.

Detective Cyril Evans testified that he took part in the arrest of Eva Henize, and that he saw her drop a white rock. He turned the rock in to the central evidence and property department that night. He also collected twelve dollars that Ronald Joseph was carrying. Thirty-three dollars were seized from Damien Delatte.

The parties stipulated that the rock-like substance the detective retrieved was tested and proved to be crack cocaine.

In his sole assignment of error, the defendant now argues that the evidence is insufficient to support the conviction because there is no evidence to prove the defendant ever possessed the cocaine. He also complains that the fact that he was carrying only twelve dollars should indicate he did not sell cocaine because it costs more than that.

In *State v. Ash*, 97-2061, pp. 4-5 (La. App. 4 Cir. 2/10/99), 729 So.2d 664, 667-668, this court summarized the standard of review that applies when a defendant claims that the evidence produced to convict him was

constitutionally insufficient:

In evaluating whether evidence is constitutionally sufficient to support a conviction, an appellate court must determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt. *Jackson v. Virginia*, 443 U. S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). The reviewing court is to consider the record as a whole and not just the evidence most favorable to the prosecution; and, if rational triers of fact could disagree as to the interpretation of the evidence, the rational decision to convict should be upheld. *State v. Mussall*, 523 So.2d 1305 (La.1988). Additionally, the reviewing court is not called upon to decide whether it believes the witnesses or whether the conviction is contrary to the weight of the evidence. *Id.* The trier of fact's determination of credibility is not to be disturbed on appeal absent an abuse of discretion. *State v. Cashen*, 544 So.2d 1268 (La. App. 4<sup>th</sup> Cir. 1989). When circumstantial evidence forms the basis of the conviction, such evidence must consist of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. *State v. Shapiro*, 431 So.2d 372 (La. 1982). The elements must be proved such that every reasonable hypothesis of innocence is excluded. La. R.S. 15:438. This is not a separate test from *Jackson v. Virginia, supra*, but rather is an evidentiary guideline to facilitate appellate review of whether a rational juror could have found a defendant guilty beyond a reasonable doubt. *State v. Wright*, 445 So.2d 1198 (La. 1984). All evidence, direct and circumstantial, must meet the *Jackson* reasonable doubt standard. *State v. Jacobs*, 504 So.2d 817 (La. 1987).

To support a conviction for possession of cocaine, the state must prove that a defendant knowingly possessed the narcotics. *State v. Chambers*, 563 So. 2d 579, 580 (La. App. 4 Cir. 1990). The state need not prove that the defendant was in actual possession of the drug found; constructive possession is sufficient to support conviction. *See State v. Trahan*, 425 So. 2d 1222, 1226 (La. 1983); *see also State v. Cann*, 319 So. 2d 396, 397 (La. 1975). The mere presence of a defendant in the area where the narcotics were found is insufficient to prove constructive possession. *See State v. Collins*, 584 So. 2d 356, 360 (La. App. 4 Cir. 1991).

The evidence offered at trial supports the finding that the defendant possessed cocaine. Sergeant Roussel testified that he saw Ronald Joseph walk out of the shadows at the codefendant's signal. The officer then saw the defendant hand the woman something and receive something in return. The woman was later confronted while she was holding a rock-like substance and then, when she realized she was facing an officer, she dropped the rock.

Thus, the state produced sufficient evidence to sustain the defendant's conviction for possession of cocaine. We note that he was not convicted for selling the drug, and, thus, the fact that he carried only twelve dollars is irrelevant. Viewing the evidence in the light most favorable to the

prosecution, a rational trier of fact could have found proof beyond a reasonable doubt of each of the essential elements of the crime charged sufficient to exclude every reasonable hypothesis of innocence.

This assignment of error is without merit.

Accordingly, for the foregoing reasons, the defendant's conviction and sentence are affirmed.

**AFFIRMED.**