

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAWRENCE CEGERS,

Defendant-Appellant.

UNPUBLISHED

September 18, 1998

No. 202998

Kalamazoo Circuit Court

LC No. 96-000194 FH

Before: Smolenski, P.J., and McDonald and Saad, JJ.

PER CURIAM.

Defendant was convicted by a jury of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and possession with intent to deliver marijuana, MCL 333.7401(2)(d); MSA 14.15(7401)(2)(d). Defendant was sentenced to lifetime probation for the cocaine conviction and three years' probation for the marijuana conviction, the last ninety days of the latter probation to be served in jail. Defendant appeals as of right. We affirm defendant's convictions and sentences and remand for correction of the judgment of sentence.

Defendant contends that with respect to both convictions there was insufficient evidence from which to find the element of intent to deliver.

In reviewing the sufficiency of the evidence, this Court views the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). Circumstantial evidence and the reasonable inferences arising therefrom can constitute satisfactory proof of the elements of the crime. *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996). Because of the difficulty in proving an actor's state of mind, minimal circumstantial evidence is sufficient to sustain a conclusion that a defendant possessed the requisite intent. *People v Bowers*, 136 Mich App 284, 297; 356 NW2d 618 (1984).

In this case, evidence was presented that defendant resided at the house where the cocaine and marijuana were found and that he was in close proximity to these drugs at the time the police officers

entered the residence. Evidence was also presented that the drugs did not belong to defendant's wife, who also resided at the house and was the only other person present when the drugs were found. Finally, evidence was presented that the rocks of cocaine were held in a manner to facilitate delivery and that the marijuana was packaged for delivery. We conclude that the circumstantial evidence was sufficient to permit a rational factfinder from concluding beyond a reasonable doubt that defendant intended to deliver cocaine and marijuana.

Finally, our review reveals that the judgment of sentence erroneously states that defendant was convicted of possession of twenty-five grams or more but less than fifty grams of cocaine, MCL 333.7403(2)(a)(iv); MSA 14.15(7403)(2)(a)(iv), and possession of marijuana, MCL 333.7403(2)(d); MSA 14.15(7403)(2)(d). We therefore remand for the purely administrative task of correcting the judgment of sentence to reflect that defendant was convicted of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and possession with intent to deliver marijuana, MCL 333.7401(2)(d); MSA 14.15(7401)(2)(d).

Affirmed and remanded. We do not retain jurisdiction.

/s/ Michael R. Smolenski

/s/ Gary R. McDonald

/s/ Henry William Saad