STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MAURICE L. BURNS,

Defendant-Appellant.

UNPUBLISHED
November 12, 1999

No. 207472
Recorder's Court
LC No. 96-503791

Before: Whitbeck, P.J., and Gribbs and White, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction 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), entered after a bench trial. We affirm.

At trial, the evidence showed that the truck defendant was driving was stopped after officers determined that the license plate was expired. The truck was not registered to defendant. Nevertheless, he was arrested after the officers confirmed that he had outstanding warrants. A search of the truck revealed a plastic bag containing eighty packets of what appeared to be crack cocaine. Defendant had a cellular telephone, a pager, and $320 in cash on his person. He denied that the cocaine belonged to him, and told the officers that it had not been in the truck when he borrowed it. The parties stipulated that the substance was cocaine.

The trial court found defendant guilty as charged. The court found that under the totality of the circumstances, defendant possessed the cocaine. In response to defendant's objection that no evidence showed that he knew that the substance was cocaine, the trial court indicated that the evidence showed that in response to an inquiry by an officer, he stated that the cocaine did not belong to him. Subsequently, the trial court sentenced defendant to lifetime probation.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990). The trier of fact may make

reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *Id.*

To establish that defendant was guilty of the offense of possession with intent to deliver less than fifty grams of cocaine, the prosecution was required to prove: (1) that the substance was cocaine and defendant knew that it was cocaine; (2) that the cocaine was in a mixture weighing less than fifty grams; and (3) that defendant knowingly possessed the cocaine with the intent to deliver it to someone else. CJI2d 12.3; *People v Crawford*, 458 Mich 376, 389; 582 NW2d 785 (1998).

Possession of a controlled substance may be actual or constructive. *People v Konrad*, 449 Mich 263, 271; 536 NW2d 517 (1995). The critical question is whether the defendant had dominion or control over the controlled substance. *Id.* Mere presence is insufficient. *People v Wolfe*, 440 Mich 508, 520; 489 NW2d 748, amended 444 Mich 1201 (1992). Some additional link between the defendant and the controlled substance must be shown. *Id.* [C]ircumstantial evidence and reasonable inferences arising from the evidence are sufficient to prove possession. *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998). Actual delivery is not required in order to prove intent to deliver. *Wolfe, supra.* Intent may be inferred from all the facts and circumstances. *People v Lugo*, 214 Mich App 699, 709; 542 NW2d 921 (1995). Minimal circumstantial evidence is sufficient. *Fetterley*, *supra* at 517-518. Intent to deliver can be inferred from the quantity of the controlled substance in the defendant's possession and the way in which the substance is packaged. *Wolfe, supra*.

Defendant argues that the evidence produced at trial was insufficient to support his conviction. We disagree and affirm. The evidence showed that eighty individual packages of cocaine were found under the driver's seat of a truck occupied solely by defendant. When asked about the presence of the cocaine, defendant denied that it belonged to him; however, he admitted that the cocaine had not been in the truck when he borrowed it. The trial court's finding that defendant knew that the substance was crack cocaine was not clearly erroneous. MCR 2.613(C). Sufficient evidence was produced to allow the trier of fact to conclude beyond a reasonable doubt that defendant had dominion and control over, and thus constructive possession of, the cocaine. *Fetterley*, *supra* at 515. Furthermore, the fact that the cocaine was packaged in eighty individual packets, coupled with the fact that defendant had items such as a cellular telephone, a pager, and a large amount of cash on his person, would allow the trier of fact to conclude beyond a reasonable doubt that defendant knowingly possessed the cocaine and intended to deliver the cocaine to someone else. *Wolfe, supra*; *Fetterley*, *supra*. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. *Petrella*, *supra*.

Affirmed.

/s/ William C. Whitbeck
/s/ Roman S. Gribbs
/s/ Helene N. White