

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RANDY LAMAR WOODWARD,

Defendant-Appellant.

UNPUBLISHED

April 28, 2000

No. 215841

Cass Circuit Court

LC No. 97-008988

Before: Collins, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant appeals as of right his convictions after a jury trial for possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii); MSA 14.15(7401)(2)(d)(iii), and possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). We affirm.

On appeal, defendant argues that there was insufficient evidence of possession to support his convictions. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder 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 (1992).

Proof of actual physical possession is unnecessary to support a conviction for possession of a controlled substance with intent to deliver; proof of constructive possession will suffice. *People v Konrad*, 449 Mich 263, 271; 536 NW2d 517 (1995). Possession need not be exclusive, and may be joint. *Id.* The essential question is whether the defendant had dominion and control over the substance. *Id.* Where a number of people are found in close proximity to a quantity of drugs, a court could find that there is sufficient evidence that each of them had constructive possession. *Id.* at 272.

Defendant was a periodic visitor to the house, which was used to distribute drugs. According to the police officers, marijuana debris was spread through the kitchen, along with packaging materials. Defendant's testimony that he did not see any drugs was incredible. Where

defendant was in close proximity to openly displayed drugs, the jury could find that he had joint constructive possession of the controlled substances. *Konrad, supra*.

Affirmed.

/s/ Jeffrey G. Collins

/s/ Janet T. Neff

/s/ Michael R. Smolenski