

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRIAN GOREE,

Defendant-Appellant.

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UNPUBLISHED

May 30, 2000

No. 213413

Wayne Circuit Court

LC No. 98-002164

Before: Hoekstra, P.J., and Holbrook, Jr., and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction for possession with intent to deliver less than fifty grams of heroin, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(7401)(2)(a)(iv), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was arrested in a raid by police executing a search warrant. One officer testified that he observed defendant dropping a bag containing packets of heroin and attempting to flee by jumping through a window. On appeal, defendant argues that there was insufficient evidence to support his conviction.

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).

To support a conviction for possession with intent to deliver less than fifty grams of a controlled substance it is necessary for the prosecutor to prove four elements: (1) that the recovered item is a controlled substance, (2) that substance is in a mixture weighing less than fifty grams, (3) that the defendant is not authorized to possess the substance, and (4) that the defendant knowingly possessed the substance with the intent to deliver. *People v Lewis*, 178 Mich App 464; 444 NW2d 194 (1989).

It was not contested that the bag contained less than fifty grams of a mixture containing heroin, and that defendant was not authorized to possess heroin. Where an officer testified that he observed

defendant dropping the bag containing the packs of heroin, there was sufficient evidence to show that defendant possessed the bag.

While there was no direct evidence of intent to deliver, this intent may be inferred from the evidence and circumstances surrounding the arrest. The bag dropped by defendant contained numerous baggies that were packaged for resale. A significant quantity of cash was found nearby. This circumstantial evidence is sufficient for the court to conclude that defendant intended to deliver the heroin. *Wolfe, supra*, 524-525.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra