STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSHUA JOE RINCON,

Defendant-Appellant.

UNPUBLISHED
March 1, 2002

No. 228941
Lenawee Circuit Court
LC No. 99-008482-FH

Before: Bandstra, P.J., and Murphy and Murray, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v). The trial court sentenced him to eleven months in jail and five years' probation. Defendant appeals as of right and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Following a traffic stop, Lenawee County Deputy Sheriff Michael Boehme arrested defendant, handcuffed defendant's hands behind his back, and put him in the back seat of a patrol car. By the time Boehme drove defendant to the jail, defendant had managed to work his hands in front of him. Boehme later discovered two crack pipes stuffed in the back seat of the patrol car and subsequent laboratory testing revealed cocaine on one of the pipes. Defendant was the only person who had been in the back seat of the patrol car since Boehme last checked it for contraband.

Defendant's sole claim on appeal is that there was insufficient evidence to sustain his conviction. Specifically, he contends there was no evidence that he had knowledge that the pipes contained cocaine and hence no evidence that he knowingly possessed the cocaine. When reviewing a challenge to the sufficiency of the evidence, this Court views the evidence in a light most favorable to the prosecution to determine if a rational trier of fact could find the elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Circumstantial evidence, and reasonable inferences arising from it, can constitute satisfactory proof of the elements of a crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

Defendant's argument is based on this Court's decision in *People v Hunten*, 115 Mich App 167; 320 NW2d 68 (1982). In that case, a routine search of the defendant inmate's prison cell revealed a needle, syringe, and small pipe in the tongue of the defendant's shoe. *Id.* at 168.

A laboratory report showed that there was an invisible trace of a controlled substance on the syringe and needle cover. *Id.* at 169. The trial court dismissed a charge of possession of a controlled substance, and this Court affirmed. The *Hunten* Court concluded that the mere presence of a minute and invisible quantity of a controlled substance was insufficient to support an inference that the defendant knew of the presence of the substance. *Id.* at 171. The *Hunten* Court noted, however, that other facts and circumstances might be established from which such knowledge could be inferred. *Id.*

Hunten was distinguished by this Court in *People v Vaughn*, 200 Mich App 32; 504 NW2d 2 (1993). There, a corrections officer saw the defendant inmate jump up, cup something in his hand, toss something out a window, attempt to wipe blood off the floor with a sheet of paper, and swallow a small white package. *Id.* at 34. An invisible trace of cocaine was found on a syringe discovered outside the defendant's window. *Id.* at 35. Pointing out *Hunten*'s caveat that other facts and circumstances might allow an inference of knowing possession, the *Vaughn* Court concluded that the corrections officer's belief that the defendant was using drugs and the defendant's attempt to dispose of the evidence, in conjunction with the laboratory tests confirming the presence of cocaine, was sufficient to establish criminal scienter and distinguished the case from *Hunten.* *Id.* at 37-38.

Here, defendant argues that this case is indistinguishable from *Hunten.* We disagree. Even if the cocaine was invisible, as defendant assumes, the circumstances surrounding defendant's possession of the pipes were such that the jury could infer defendant knowingly possessed cocaine. The pipes had only one purpose, to smoke crack. Like the defendant in *Vaughn*, defendant went to great lengths to dispose of the crack pipes. He maneuvered his handcuffed hands from behind his back to his front, an action Boehme had never seen before. Still handcuffed, he removed the pipes from his clothing and tucked them between the patrol car seat cushions in an effort to dispose of them in such a way that they could not be traced to him. Under these circumstances, and viewing the evidence in a light most favorable to the prosecution, the jury could infer that defendant knew at least one of the pipes contained cocaine.

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray