

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL OTIS SLONE,

Defendant-Appellant.

UNPUBLISHED

December 16, 2004

No. 247655

Oakland Circuit Court

LC No. 2002-187053-FH

Before: Markey, P.J., and Fitzgerald and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial conviction for possession of less than twenty-five grams of heroin, MCL 333.7403(2)(a)(v). Defendant was sentenced to 2 ½ to 15 years' imprisonment for the conviction. We affirm. This case is being decided without oral argument under MCR 7.214(E)

On appeal, defendant contends that the evidence was insufficient to support his conviction. Specifically, defendant argues that the prosecution failed to prove that he possessed the drugs in issue. We disagree. In reviewing the sufficiency of the evidence, we view the evidence de novo in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999); *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). Constructive possession requires that the defendant knew the substance was present and had the right to exercise control over it. *People v Wolfe*, 440 Mich 508, 520; 489 NW2d 748, amended 441 Mich 1201 (1992). Circumstantial evidence and the reasonable inferences that arise therefrom can constitute sufficient evidence to prove the elements of the crime beyond a reasonable doubt. *People v Richardson*, 139 Mich App 622, 625; 362 NW2d 853 (1984).

Viewing the evidence in the light most favorable to the prosecution, we conclude there was sufficient evidence to support a finding that defendant knowingly possessed the heroin. In response to a 911 call, paramedics were dispatched to a Farmington Hills residence. Defendant was found on the floor of the home unconscious, cyanotic, and alone. He was lying next to a table on which sat three packets containing heroin, three empty packets, and drug paraphernalia such as cotton, a spoon, sterile water, and a syringe. The paramedics administered an anti-overdose drug to the defendant, which he immediately responded to. During a later interview at the hospital, defendant admitted to police that he knew the heroin was there and that he may have

touched it earlier in the day. Taken together, this evidence indicates that defendant had constructive possession of the heroin.

Affirmed.

/s/ Jane E. Markey
/s/ E. Thomas Fitzgerald
/s/ Donald S. Owens