

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

M.C. JOHNSON,

Defendant-Appellant.

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UNPUBLISHED

December 28, 2004

No. 249425

Wayne Circuit Court

LC No. 02-003544-01

Before: Meter, P.J., and Wilder and Schuette.

PER CURIAM.

Defendant appeals as of right his bench trial conviction of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), second offense, MCL 333.7413(2). The trial court sentenced him to eighteen months' probation. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the prosecution failed to present sufficient evidence to support his conviction. We disagree. In reviewing the sufficiency of evidence to support a conviction, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the prosecution proved the essential elements of the crime beyond a reasonable doubt. *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002). The elements of possession of less than twenty-five grams of cocaine are: (1) the defendant possessed a controlled substance; (2) the substance possessed was cocaine; (3) the defendant knew he was possessing cocaine; and (4) the substance was in a mixture than weighed less than twenty-five grams. MCL 333.7403(2)(a)(v); *People v Wolfe*, 440 Mich 508, 516-517; 489 NW2d 748, amended 441 Mich 1201 (1992). Possession of a controlled substance means that the defendant had dominion or right of control over the drug with knowledge of its presence and character. *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000).

Officer William Harder saw defendant toss a black container. Officer Michael Dekun immediately retrieved this container and found that it held roughly twenty rocks of suspected crack cocaine. Laboratory analysis proved the container held 0.85 grams of cocaine. This testimony was sufficient evidence to allow a rational trier of fact to find that defendant tossed the cocaine in an effort to conceal it from the police. Therefore, there was sufficient evidence for the trial court to conclude beyond a reasonable doubt that defendant knowingly possessed the cocaine.

Defendant testified that he lived and worked in the area and had no connection to the cocaine. He argued that his version of the facts was more probable and credible than the officers' versions. Credibility of the witnesses is a matter for the trier of fact to ascertain. *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990). The trial court found the officers' testimony to be credible, and accordingly convicted defendant of possession of less than twenty-five grams of cocaine. This Court will not revisit the trial court's credibility determination.

Affirmed.

/s/ Patrick M. Meter

/s/ Kurtis T. Wilder

/s/ Bill Schuette