

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HAMMERSTEIN CAPLERA PATTERSON,

Defendant-Appellant.

UNPUBLISHED

April 20, 2010

No. 290269

Washtenaw Circuit Court

LC No. 07-001166-FH

Before: DAVIS, P.J., AND DONOFRIO AND STEPHENS, JJ.

PER CURIAM.

Defendant appeals by right his jury trial conviction of possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v).¹ Because the prosecution provided sufficient evidence to support defendant's conviction for cocaine possession, we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that the prosecution failed to present sufficient evidence to support his convictions. He argues, in particular, that there was insufficient evidence to support a conclusion that he possessed the cocaine. We review a defendant's allegations regarding insufficiency of the evidence de novo, viewing the evidence 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 Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001). We will not interfere with the jury's role of determining the weight of the evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1202 (1992). Satisfactory proof of the elements of the crime can be shown by circumstantial evidence and the reasonable inferences arising therefrom. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999). It is for the trier of fact to determine what inferences fairly can be drawn from the evidence and the weight to be accorded to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). All conflicts in the evidence must be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

¹ The prosecutor charged defendant with possession with intent to deliver, but the jury found him guilty of the lesser included offense.

To establish the elements of unlawful possession of less than 25 grams of cocaine, the prosecution must show that (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 that weighed less than 25 grams. MCL 333.7403(2)(a)(v); see *Wolfe*, 440 Mich at 516-517. A defendant does not need to own the controlled substance or have actual physical possession of it when he is discovered to have “possession” of it. The controlled substance may be constructively or jointly possessed. *Id.* at 519-520. Citing *United States v Manzella*, 791 F 2d 1263, 1266 (CA 7, 1986), our Supreme Court discussed the “dominion” or “control” necessary to establish constructive possession in *People v Konrad*, 449 Mich 263; 536 NW2d 517 (1995):

In the foremost discussion of what is necessary to have dominion or control over drugs, Judge Posner explained that a defendant “need not have them literally in his hands or on premises that he occupies but he must have the right (not the legal right, but the recognized authority in his criminal milieu) to possess them, as the owner of a safe deposit box has legal possession of the contents even though the bank has actual custody.” [*Konrad*, 449 Mich at 271, citing *Manzella*, 791 F 2d 1266.]

In the instant case, after reviewing the record and viewing the evidence in a light most favorable to the prosecution, we conclude that sufficient evidence existed connecting defendant to the cocaine found in the bedroom of the home. The police officer who conducted the search of the home testified that defendant was present in the room where the baggies of cocaine lay in a clothes basket “in plain sight” next to the bed where defendant slept. Police found only male clothes in the room, and the officer’s testimony that they were approximately the size defendant would wear allows for an inference that the clothing actually belonged to defendant. The fact that the police also discovered a letter addressed to defendant in the bedroom supports an inference that defendant resided in the home. Taken together, this evidence also supports a reasonable inference that the room where the cocaine was found was actually defendant’s room. The testimony that the cocaine was in plain sight when the officer discovered it further supports a finding that defendant knew that the cocaine was in the room, and thus supported the jury’s conclusion that defendant knowingly possessed the cocaine.

Considering the circumstantial evidence, the reasonable inferences arising therefrom, the totality of the circumstances, and resolving all evidentiary conflicts in favor of the prosecution, we conclude that there was sufficient evidence to show that defendant had dominion and control over the cocaine found in the bedroom. Moreover, even if the evidence might also connect the home’s other occupants to the drugs as well, “possession may be joint, with more than one person actually or constructively possessing a controlled substance.” *Wolfe*, 440 Mich at 520. Nor was the prosecutor required to disprove defendant’s assertion that he may have once lived at the home but no longer did, that the owner of the home failed to forward his mail, and that he had just returned for a visit. See *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000) (“[T]he prosecutor need not negate every reasonable theory consistent with innocence.”).

Affirmed.

/s/ Alton T. Davis
/s/ Pat M Donofrio
/s/ Cynthia Diane Stephens