

DA 16-0045

IN THE SUPREME COURT OF THE STATE OF MONTANA

2017 MT 86N

STATE OF MONTANA,

Plaintiff and Appellee,

v.

SHADRICK MACHO CHIPPEWA,

Defendant and Appellant.

APPEAL FROM: District Court of the Thirteenth Judicial District,
In and For the County of Yellowstone, Cause No. DC 14-262
Honorable Gregory R. Todd, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Maury Solomon, Attorney at Law, Danville, California

For Appellee:

Timothy C. Fox, Montana Attorney General, Micheal S. Wellenstein,
Assistant Attorney General, Helena, Montana

Scott D. Twito, Yellowstone County Attorney, Billings, Montana

Submitted on Briefs: March 15, 2017

Decided: April 11, 2017

Filed:



Clerk

Chief Justice Mike McGrath delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Shadrick Macho Chippewa (Chippewa) appeals from a June 30, 2015 jury conviction of criminal possession of dangerous drugs, a felony. We affirm.

¶3 Chippewa was arrested in Billings, Montana, pursuant to an arrest warrant on February 25, 2013. A broken glass pipe was found on Chippewa's person. An analysis conducted by the Montana State Crime Lab found residue that tested positive for methamphetamine. Chippewa was charged with one felony count of criminal possession of dangerous drugs in violation of § 45-9-102, MCA. At trial, Chippewa's counsel moved for a directed verdict based on insufficient evidence. The District Court denied the motion. Chippewa appeals.

¶4 Chippewa argues there was insufficient evidence from which a rational trier of fact could infer, beyond a reasonable doubt, that he "knowingly possessed" methamphetamine. The State must prove beyond a reasonable doubt that a defendant knowingly possessed a dangerous drug to convict for possession. Section 45-9-102, MCA. When knowledge of the existence of a fact is an element of an offense, such knowledge is established if a person is aware of a high probability of its existence and it may be inferred from acts or conduct

of the accused and circumstances of the offense. Section 45-2-103(3), MCA; *State v. Krum*, 238 Mont. 359, 362, 777 P.2d 889, 891 (1989). The standard of review for sufficiency of the evidence on appeal is whether, upon viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *State v. Gunderson*, 2010 MT 166, ¶ 58, 357 Mont. 142, 237 P.3d 74.

¶5 Chippewa was in actual physical possession of a glass pipe containing methamphetamine when it was found in his pants pocket. Officers testified the pipe was of a type normally used to smoke methamphetamines and that it had been previously used. These circumstances support the conclusion that Chippewa knowingly possessed a dangerous drug. Whether Chippewa acted with knowledge was a question for the jury and can be inferred from the facts in evidence. *State v. Korell*, 213 Mont. 316, 323, 690 P.2d 992, 996 (1984). We find that viewing the evidence in the light most favorable to the prosecution, a reasonable juror could conclude that Chippewa knew he possessed methamphetamine.

¶6 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶7 Affirmed.

/S/ MIKE McGRATH

We Concur:

/S/ MICHAEL E WHEAT

/S/ LAURIE McKINNON

/S/ BETH BAKER

/S/ JIM RICE