

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

Appellee

v.

ROBERT CRAIGHEAD

Appellant

No. 1058 WDA 2011

Appeal from the Judgment of Sentence May 31, 2011  
In the Court of Common Pleas of Allegheny County  
Criminal Division at No(s): CP-02-CR-0003732-2010

BEFORE: PANELLA, J., ALLEN, J., and STRASSBURGER, J.\*

MEMORANDUM BY PANELLA, J.

Filed: March 15, 2013

Appellant, Robert Craighead, appeals from the judgment of sentence entered by the Honorable Jill E. Rangos, Court of Common Pleas of Allegheny County. After careful review, we affirm.

For purposes of this appeal, the procedural and factual history of this case is essentially uncontested. Craighead was arrested after an index search pursuant to a traffic stop alerted Officer Matt Zuccher that Craighead had an outstanding warrant. Officer Zuccher arrested Craighead and asked him to turn over any contraband prior to being searched at the jail to avoid the possibility of additional felony charges. After Craighead failed to produce any additional contraband, Officer Zuccher placed him in the custody of

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\* Retired Senior Judge assigned to the Superior Court.

Officer Kenneth Manuel for transport to the Allegheny County Jail. Upon arriving at the intake area of the Jail, Craighead voluntarily surrendered a bag of crack cocaine to Corrections Officer Thomas Faherty. Among others, Craighead was ultimately convicted of possession of a controlled substance by an inmate, 18 Pa. Cons. Stat. Ann. § 5123 (a.2). The trial court sentenced Craighead to an aggregate term of three years' probation, with the first six months in intermediate punishment. This timely appeal followed.

On appeal, Craighead raises two issues for our review:

- I. Whether Mr. Craighead's conviction for Contraband must be reversed, and his Judgment of Sentence is [sic] this regard must be vacated, when the Commonwealth failed to prove, beyond a reasonable doubt, that he was an "inmate" as defined under the statute?
- II. Whether Mr. Craighead's conviction for Contraband must be reversed, and his Judgment of Sentence is [sic] this regard must be vacated, because based on the totality of the circumstances, this was clearly a *de minimus* infraction?

Appellant's Brief, at 4.

In his first issue on appeal, Craighead contends that the evidence at trial was insufficient to convict him of possession of a controlled substance by an inmate. Our standard of review is well established. "We must determine whether the evidence admitted at trial, and all reasonable inferences derived therefrom, when viewed in the light most favorable to the Commonwealth as verdict winner, support all of the elements of the offense

beyond a reasonable doubt.” ***Commonwealth v. Cooper***, 596 Pa. 119, 130, 941 A.2d 655, 662 (2007).

Our scope of review is plenary. ***See Commonwealth v. Weston***, 561 Pa. 199, 203 n.8, 749 A.2d 458, 460 n.8 (2000). We may not weigh the evidence and substitute our judgment for the fact-finder’s, as the fact-finder solely determines the credibility of witnesses and is free to believe all, part or none of the evidence submitted. ***Cooper***, 596 Pa. at 130, 941 A.2d at 662. “This standard is equally applicable to cases where the evidence is circumstantial rather than direct so long as the combination of the evidence links the accused to the crime beyond a reasonable doubt.” ***Commonwealth v. Swerdlow***, 636 A.2d 1173, 1176 (Pa. Super. 1994) (citation omitted).

A defendant is guilty of possession of a controlled substance by an inmate if he unlawfully has any controlled substance in his possession while he is a prisoner or inmate. ***See*** 18 Pa. Cons. Stat. Ann. § 5123 (a.2). Craighead argues that the evidence cannot establish that he was an “inmate” when he surrendered the crack cocaine to Corrections Officer Faherty. “Inmate” is defined by the statute as an “offender who is committed to, under sentence to or confined in a penal or correctional institution.” 18 Pa. Cons. Stat. Ann. § 5123 (a.2)(e).

As Craighead notes in his brief, this issue primarily raises a question of statutory construction. Above all else, we are to construe statutes to

effectuate legislative intent. **See** 1 Pa. Cons. Stat. Ann. § 1921(a). If the words of a statute are clear and unambiguous, we are not to ignore the plain text in a search for hidden intent. **See** 1 Pa. Cons. Stat. Ann. § 1921(b). We conclude that the language of the statute is clear and unambiguous when applied to the facts of this case.

It is undisputed that Craighead had been arrested by Officer Zuccher. Furthermore, it is undisputed that Officer Zuccher transferred custody of Craighead to Officer Manuel for the purpose of transporting Craighead to the Allegheny County Jail. Finally, Corrections Officer Faherty testified that Manuel brought Craighead to the jail. **See** N.T., non-jury trial, 3/11, 14/2011, at 89. Corrections Officer Faherty asked Officer Manuel to remove the handcuffs from Craighead and place Craighead “on the wall.” **Id.** Corrections Officer Faherty then proceeded to initiate his search procedure by asking Craighead about his possessions. **See id.**

These circumstances establish that at that time, Craighead was committed to a correctional institution. Craighead does not contend that the Allegheny County Jail is not a correctional facility. Rather, Craighead argues that the intake area is factually distinct from the remainder of the jail structure. However, this ignores the operative analysis: whether Craighead was an inmate of the correctional facility. The circumstances clearly establish that Officer Manuel had surrendered custody of Craighead to Corrections Officer Faherty. As such, Craighead was at that point an inmate

of the Allegheny County Jail. At that moment, Craighead's possession of crack cocaine was sufficient to justify a conviction for violating 18 Pa. Cons. Stat. Ann. § 5123 (a.2). Craighead's first issue on appeal therefore merits no relief.

In his second issue on appeal, Craighead contends that his conviction for possessing contraband as an inmate should be reversed, as it is a *de minimus* violation of the statute. Craighead concedes that the statute does not permit a finding of a *de minimus* infraction based upon the amount of controlled substance possessed. However, Craighead argues that it was his conduct that amounted to a *de minimus* infraction.

Craighead contends that he had "**no** choice in deciding whether the drugs would accompany him to the Allegheny County Jail; he was under arrest." Appellant's Brief, at 21 (emphasis in original). Indeed, it is undisputed that Craighead voluntarily surrendered the controlled substances when questioned by Corrections Officer Faherty. However, Craighead ignores the testimony of Officer Zuccher, who stated that he asked Craighead to surrender any contraband to him prior to placing Craighead in the police wagon. **See** N.T., non-jury trial, 3/11, 14/2011, at 56-57. Craighead had an opportunity to surrender the controlled substance to Officer Zuccher before he was transferred to the custody of the Allegheny County Jail. His failure to avail himself of this opportunity negates his argument that he was forced to possess the contraband while he was an

inmate. We therefore conclude that Craighead's second issue on appeal merits no relief.

As neither of Craighead's issues raised on appeal merit relief, we affirm the judgment of sentence.

Judgment of sentence affirmed. Jurisdiction relinquished.