

2019 IL App (1st) 163300-U

No. 1-16-3300

Order filed January 15, 2019

Second Division

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 15 CR 12631
)	
DEANTHONY ELLIS,)	Honorable
)	Raymond Myles,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE MASON delivered the judgment of the court.
Justices Lavin and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction for possession of a controlled substance affirmed where the evidence established that he had constructive possession of the cocaine recovered from inside a pillowcase in his bedroom.

¶ 2 Following a bench trial, defendant Deanthony Ellis was convicted of possession of a controlled substance for possessing 4.7 grams of cocaine (720 ILCS 570/402(c) (West 2014)) and sentenced to two years' probation. On appeal, Ellis contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to show that he had constructive

possession of the cocaine where there was no evidence that he had any knowledge of the drugs found inside a pillowcase. We affirm.

¶ 3 Ellis was charged with one count of possession of a controlled substance with intent to deliver between 1 and 15 grams of a substance containing cocaine. The evidence at trial showed that at 11:11 a.m. on July 12, 2015, Chicago police officer Craig Lyke and other officers executed a search warrant at a single-family home at 1217 West 97th Place in Chicago. The officers knocked on the rear door of the house and announced their office. No one answered. The door was unlocked, so the team of officers entered the home. The officers found four adults, three teenagers, and a very young child on the main floor of the home. Two additional adults were found in the basement. The police detained everyone in the living room. Ellis was not in the home or present during the search.

¶ 4 Chicago police sergeant James Ballauer was searching the rear bedroom and recovered from inside a pillowcase on the bed a clear knotted plastic bag of white powder, which he suspected was cocaine. Ballauer called out to Lyke to assist him. When Lyke entered the bedroom, which was not locked, Ballauer pointed out the bag next to the pillow on the bed. On a television stand, the officers observed a checkbook and two pieces of mail containing parking violations from the City of Chicago. All three of the items were in Ellis's name with the 1217 West 97th Place address. Near the base of the television, Lyke observed a driver's license with Ellis's name and photograph, and the same address. Lyke observed underneath the bed a small black digital scale, small Ziploc baggies inside a shoe, and a plate with a razorblade on it. He also observed men's clothing and distinctive Nike "Foamposite" shoes in the bedroom. When he

left the house, Lyke left a copy of the search warrant and his contact information for Ellis to contact him. Lyke and Ballauer identified Ellis in court.

¶ 5 At 4:10 p.m. the following day, Ellis arrived at the police station and turned himself in. Ellis was wearing a pair of Nike Foamposite shoes similar to those Ballauer saw in the bedroom the previous day.

¶ 6 The parties stipulated that forensic chemist Jason George tested the one item inside of the clear plastic bag and found it positive for 4.7 grams of cocaine.

¶ 7 Ellis did not testify or present any evidence on his behalf.

¶ 8 The trial court found that the State did not prove intent to deliver the cocaine, but concluded the State proved that Ellis possessed the drugs found inside the pillowcase in his bedroom. Accordingly, the trial court found Ellis guilty of the lesser-included offense of possession of a controlled substance. The court sentenced Ellis to two years of “expungeable” probation and advised him that it would remove him from probation after one year if he complied with all of the requirements. The record does not reflect whether Ellis successfully completed his probation and, if so, whether his conviction has been expunged.

¶ 9 On appeal, Ellis contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to show that he had constructive possession of the cocaine where there was no evidence that he had any knowledge of the drugs found inside the pillowcase. It is undisputed that Ellis was not present during the search. Ellis claims that any of the nine adults present in the home could have entered the bedroom and hidden the drugs inside the pillowcase after the police knocked on the door and before they entered the house. Ellis asserts that even if

his driver's license, checkbook and mail were found in the room, and he had control of the bedroom, the evidence still does not show that he had any knowledge of the drugs.

¶ 10 When a defendant claims that the evidence is insufficient to sustain his conviction, this court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements of the offense proved beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). This standard applies whether the evidence is direct or circumstantial, and does not allow this court to substitute its judgment for that of the fact finder on issues involving witness credibility and the weight of the evidence. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42.

¶ 11 In a bench trial, the trial court is responsible for determining the credibility of the witnesses, weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). We will not reverse a criminal conviction based upon insufficient evidence (i) unless the evidence is so improbable or unsatisfactory that there is reasonable doubt as to defendant's guilt (*People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011)), or (ii) simply because defendant claims that a witness was not credible or that the evidence was contradictory (*Siguenza-Brito*, 235 Ill. 2d at 228).

¶ 12 To prove Ellis guilty of possession of a controlled substance in this case, the State was required to show that he unlawfully and knowingly possessed between 1 and 15 grams of a substance containing cocaine. 720 ILCS 570/402(c) (West 2014).

¶ 13 Possession of contraband may be either actual or constructive. *People v. Givens*, 237 Ill. 2d 311, 335 (2010). When, as here, defendant is not found in actual physical possession of the contraband, the State must prove constructive possession. *People v. Spencer*, 2012 IL App (1st) 102094, ¶ 17. Constructive possession exists where defendant had knowledge of the presence of the drugs, and had immediate and exclusive control over the location where the item was found. *Id.* Control is established when defendant has the capability and intent to maintain dominion and control over the contraband, even if he lacks personal present dominion over it. *Id.* (citing *People v. Frieberg*, 147 Ill. 2d 326, 361 (1992)). Proof that defendant had control over the premises where the contraband is found gives rise to an inference of defendant's knowledge and possession of that contraband. *Givens*, 237 Ill. 2d at 335. "The law is clear that the exclusive dominion and control required to establish constructive possession is not diminished by evidence of others' access to the contraband." (Internal quotation marks omitted.) *Id.* at 338.

¶ 14 Constructive possession may be inferred from the evidence and is often established by entirely circumstantial evidence. *People v. McCarter*, 339 Ill. App. 3d 876, 879 (2003). The fact finder is entitled to rely on reasonable inferences of knowledge and possession, absent other factors that might raise a reasonable doubt of defendant's guilt. *Spencer*, 2012 IL App (1st) 102094, ¶ 17. Defendant's habitation in the premises where contraband is found is sufficient evidence of his control of the location to establish constructive possession. *Id.*

¶ 15 Viewed in the light most favorable to the State, we find that the evidence here was sufficient for the trial court to find that Ellis had constructive possession of the cocaine found inside a pillowcase in his bedroom. Ballauer recovered a clear knotted bag of white powder, which he suspected was crack cocaine, from inside a pillowcase on the bed. When Lyke entered

the bedroom moments later, he observed the bag of narcotics next to the pillow on the bed. Both Lyke and Ballauer observed on a television stand in the bedroom Ellis's driver's license, checkbook, and two pieces of mail containing parking violations addressed to him. All of these items contained Ellis's name and the address of the subject house, and the driver's license also contained Ellis's photograph. In addition, Lyke observed men's clothing and a distinctive pair of gym shoes in the bedroom. The following day, when Ellis turned himself in at the police station, Lyke observed that the shoes Ellis was wearing were similar to those he had seen in Ellis's bedroom the day before, refuting Ellis's contention on appeal that there was nothing from which the trial court could infer that he had occupied the room "in the hours, days, or weeks immediately prior to the search." The trial court found that there was "no question whatsoever" that it was Ellis's bedroom. The court further stated to Ellis: "[i]t is your bedroom. You are responsible for everything that is in your bedroom. You have knowledge of it."

¶ 16 Based on the cumulative evidence found in the bedroom, the trial court reasonably inferred that Ellis had control over the bedroom. It follows that based on his control of the bedroom, the court could also reasonably infer that Ellis had knowledge of the presence of the cocaine found inside of the pillowcase on the bed. *Spencer*, 2012 IL App (1st) 102094, ¶ 17.

¶ 17 Ellis's reliance on *People v. Maldonado*, 2015 IL App (1st) 131874, is misplaced. In *Maldonado*, defendant's convictions were reversed based on the State's failure to establish that the defendant had constructive possession of the contraband (ammunition and narcotics) found during a search of a residence. *Id.* ¶ 24. The only proof of defendant's residency in the premises was a delivery receipt for furniture with defendant's name hand-printed on it and two pieces of unopened mail, one and possibly both of which were mass solicitations or "junk mail." *Id.* ¶ 28.

There is no indication in *Maldonado* where the proof of residency items were located in the home or whether there was any basis to conclude that the bedrooms in which the contraband was found belonged to defendant. We found that the State failed to present any direct evidence that the defendant had control over the premises, nor did the State present any direct or circumstantial evidence that the defendant had knowledge of the contraband found there. *Id.* ¶ 24. In finding this evidence insufficient to sustain defendant's convictions, we noted that while the presence of mail addressed to defendant can indicate residence in and control of the premises, junk mail or mass mailings have "little or no evidentiary value given the nature of mass mailing solicitations," and that this is particularly true when the defendant is not present when the search is conducted. *Id.* ¶ 28-29.

¶ 18 In contrast to the lack of evidence in *Maldonado*, the presence in the bedroom of Ellis's driver's license and checkbook—both containing the address of the premises searched—and parking tickets specifically addressed to him, was sufficient to establish control. And the precise location of the narcotics in the bedroom—concealed inside a pillowcase on Ellis's bed—was sufficient to support the inference that Ellis knew of their presence.

¶ 19 We reject as pure speculation Ellis's argument that someone else who was present in the home the day it was searched could have entered the bedroom and hidden the drugs inside the pillowcase after the police knocked on the door and before they entered the house. Positing this scenario consistent with Ellis's innocence does not render the contrary inference drawn by the trial court unreasonable. See *People v. Siguenza-Brito*, 235 Ill. 2d 213, 229 (2009) (trier of fact "is not required to accept any possible explanation compatible with the defendant's innocence and elevate it to the status of reasonable doubt."); *Maldonado*, 2015 IL App (1st) 131874, ¶ 43

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(noting that even though there was no need to reach defendant's contention that others in the residence had access to the area where contraband was found, court would have "reject[ed] it summarily based on settled law that constructive possession of contraband can be established even where possession is joint or others have access to the area where the contraband is recovered. (citation omitted)."). Based on this record, we find no reason to disturb the trial court's determination in this case.

¶ 20 We affirm the judgment of the circuit court of Cook County.

¶ 21 Affirmed.