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2011 IL App (3d) 091004-U

Order filed August 15, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Plaintiff-Appellee,	)	Will County, Illinois,
	)	
v.	)	Appeal No. 3-09-1004
	)	Circuit No. 09-CF-1103
	)	
RYAN REDDICK,	)	Honorable
	)	Amy Bertani-Tomczak,
Defendant-Appellant.	)	Judge, Presiding.

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PRESIDING JUSTICE CARTER delivered the judgment of the court.  
Justices O'Brien and Lytton concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Evidence at trial was sufficient to prove defendant guilty of unlawful possession of a weapon by a felon where police officer testified that he saw defendant make a throwing motion and then discovered a gun in the direction of the throw.

¶ 2 Defendant, Ryan Reddick, was charged with one count of unlawful use of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2008)). Following a bench trial, defendant was convicted of the charge and sentenced to a term of seven years imprisonment. Defendant appeals, arguing that the evidence presented at trial was insufficient to prove, beyond a reasonable doubt, that he had

actual or constructive possession of a firearm. We affirm.

¶ 3

### FACTS

¶ 4 Defendant was indicted on one count of unlawful use of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2008)). The cause proceeded to a bench trial. Officers Jamere Price and John Byrne testified that they were on patrol in a high crime area on the night of May 12, 2009, when they observed defendant next to an automobile. Byrne recognized defendant and called out his name. At about the same time, Price heard someone yell, "police," and defendant quickly walked away. The officers pursued defendant. Price went around a house while Byrne followed immediately behind defendant.

¶ 5 During the pursuit, Byrne briefly lost sight of defendant after he turned the corner of a house. When Byrne again saw him, defendant was approximately 10 feet away, making an over-the-hand throwing motion. Byrne did not see defendant reach for a weapon. Further, because it was dark out, he was unable to see anything come out of defendant's hand when he made the throwing motion. Price, likewise, did not observe defendant with a firearm before or during the pursuit.

¶ 6 After Byrne saw defendant make a throwing motion, defendant stopped and spoke with Byrne and Price. Defendant was wearing dark clothing and, despite the warm weather, a pair of black and blue mechanic's gloves. Byrne, believing that defendant had discarded contraband, called in a K-9 unit to search for the object that defendant threw. The K-9 unit discovered a firearm approximately 10 feet from where Byrne witnessed defendant make the throwing motion. The firearm was located in the direction of the throw. Price witnessed the firearm and believed that it was recently placed in its location because it was lying on top of high grass and had a

small piece of dirt or grass on its end. The firearm was later analyzed, and no fingerprints were discovered.

¶ 7 Following the officers' testimony, the State submitted a certified copy of a statement of conviction of defendant for aggravated discharge of a firearm. Following the State's case-in-chief, defendant rested without presenting any evidence. The trial court found defendant guilty of unlawful possession of a weapon by a felon. Defendant appeals.

¶ 8 ANALYSIS

¶ 9 Defendant appeals, arguing that the evidence presented at trial was insufficient to prove him guilty beyond a reasonable doubt. When presented with a challenge to the sufficiency of the evidence, the relevant question is whether, after 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. *People v. Collins*, 106 Ill. 2d 237 (1985).

¶ 10 In order to sustain a conviction of unlawful use of a weapon by a felon, the State must prove that defendant: (1) knowingly possessed a firearm; and (2) had been convicted of a felony. *People v. Ingram*, 389 Ill. App. 3d 897 (2009). Knowing possession may be either actual or constructive. Constructive possession is established where the defendant: (1) had knowledge of the presence of the weapon; and (2) exercised immediate and exclusive control over the area where the weapon was found. *People v. Bailey*, 333 Ill. App. 3d 888 (2002). Knowledge may be proved through circumstantial evidence and can be inferred by any gesture of the defendant indicating an effort to retrieve or hide a weapon. *Id.* Proof of defendant's exercise of control over the area where the weapon is found need not be actual, personal, or even present. *People v. Adams*, 161 Ill. 2d 333 (1994). Hiding a weapon to avoid detection indicates an intent to

exercise control over it. *People v. McLaurin*, 331 Ill. App. 3d 498 (2002).

¶ 11 Here, the evidence at trial was sufficient to prove defendant guilty beyond a reasonable doubt of unlawful possession of a weapon. Defendant does not challenge the evidence that he was a convicted felon; therefore, the only issue is whether the evidence presented at trial was sufficient to prove that defendant knowingly possessed a firearm. The evidence established the following: defendant quickly walked away from police officers; while walking away he made a throwing motion; after making the throwing motion he stopped to talk with the officers; despite warm weather defendant was wearing gloves; a firearm was discovered 10 feet from where the officer witnessed the throwing motion and in the direction of the throw; and the firearm appeared to be recently placed in its location.

¶ 12 When viewing this evidence in the light most favorable to the prosecution, it is permissible to conclude, beyond a reasonable doubt, that defendant had constructive possession of the firearm. Knowledge could be inferred from the circumstantial evidence, especially the fact that defendant made a throwing motion. See *Bailey*, 333 Ill. App. 3d 888. Furthermore, the evidence established that defendant was trying to hide the firearm, and thus he was attempting to exercise control over the weapon by keeping it from the police. See *McLaurin*, 331 Ill. App. 3d 498. Therefore, we conclude that the evidence was sufficient to allow a trier of fact to conclude, beyond a reasonable doubt, that defendant knowingly possessed the weapon.

¶ 13 CONCLUSION

¶ 14 The judgment of the circuit court of Will County is affirmed.

¶ 15 Affirmed.

