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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 10 CR 348/1
	)	
LARRY ANDERSON,	)	Honorable
	)	John T. Doody, Jr.,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE ROCHFORD delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Karnezis concurred in the judgment.

**ORDER**

- ¶ 1 **Held:** The State presented sufficient evidence to prove beyond a reasonable doubt that defendant possessed more than 10 grams but not more than 30 grams of cannabis pursuant to 720 ILCS 550/4(c) (West 2010). The trial court's judgment finding defendant guilty is affirmed.
- ¶ 2 Following a bench trial, defendant Larry Anderson, was found guilty of possession of more than 10 grams but not more than 30 grams of cannabis pursuant to 720 ILCS 550/4 (West 2010) of the Cannabis Control Act, and was sentenced to one year of imprisonment. On appeal, defendant contends the State failed to prove him guilty of possession of cannabis beyond a reasonable doubt.
- ¶ 3 Chicago Police Officer Corona testified during a bench trial that on November 20, 2009, at about 5:26 p.m., he and a team of approximately 15 officers executed a search warrant on a basement apartment located at 6510 South Rockwell Street in Chicago, Illinois. Officer Corona was the first

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officer to enter the basement apartment. The occupants of the apartment were three adult males and two adult females. As Officer Corona entered, he told the occupants to get down on the floor, and they did, however, defendant did not comply. Defendant attempted to conceal the suspect cannabis in his pants, in the waistband area. Officer Corona observed clear, Ziploc bags containing suspect cannabis, with a green, dollar-sign logo, fall from defendant's waistband to the floor near defendant's feet. Defendant complied with the order to get down on the floor after he dropped the bags.

¶ 4 After Officer Corona and Officer Mitchem, who was the evidence-recovery officer, handcuffed defendant, Officer Xiques<sup>1</sup> photographed the suspect cannabis that was on the floor near defendant. After Officer Xiques photographed the suspect cannabis, Officer Mitchem recovered the 16 clear, Ziploc bags with green, dollar-sign logos and gave the bags to Officer Xiques.

¶ 5 Officer Corona testified that once defendant was placed in custody, he recovered \$800 from defendant's person. On cross-examination, Officer Corona testified that he was mistaken during his grand jury testimony when he said \$100 was recovered from defendant, rather than the \$800 he actually recovered. Officers and drug enforcement agents also recovered a gray, digital scale, and clear Ziploc bags with green, dollar-sign logos from the kitchen. Defendant was located in the living room, approximately one foot away from the kitchen.

¶ 6 During cross-examination of Officer Corona, the trial court allowed the admission of defense exhibit number 4 (exhibit 4) into evidence over the State's objection. Although the parties disagree regarding the impact of Officer Corona's testimony on cross-examination in relation to exhibit 4, our review of the record reveals Officer Corona testified that exhibit 4 is a photograph of the suspect cannabis that Officer Mitchem recovered from the floor near defendant. Officer Corona testified that Officer Xiques took the photograph immediately prior to Officer Mitchem picking up the suspect cannabis off the floor. Officer Corona also testified that although 16 bags were recovered where defendant dropped them, exhibit 4 only depicts 7 bags. Although defendant would have still been

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<sup>1</sup>Officer Xiques's name was incorrectly spelled "Zekus" in the record.

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lying on the floor near the suspect cannabis at the time the photograph was taken, Officer Corona testified that defendant was not pictured in the photograph.

¶ 7 The parties stipulated Officer Mitchem would testify that he recovered 16 Ziploc bags of suspect cannabis and maintained a proper chain of custody. Peter Anzalone, Illinois State Police Crime Lab forensic chemist found, within a reasonable degree of scientific certainty, that the 16 bags contained cannabis and weighed 11.9 grams. The State also admitted into evidence a certified copy of defendant's prior conviction for possession of cannabis, for which he was sentenced to one day, with the time considered served.

¶ 8 During the defendant's case-in-chief, James Williams testified that he was in the apartment when the police executed the search warrant. He went to the apartment to pick up his friend Erica, who lived there. According to Mr. Williams, defendant was playing cards just prior to when five to six police officers entered the apartment. Defendant's back was facing Mr. Williams when defendant was playing cards. When commanded by the police, he and defendant got down on the floor, with Mr. Williams lying face-down. Although he was face-down, Mr. Williams was still able to see defendant laying near him. Defendant complied immediately with police orders to get down on the floor. Mr. Williams did not observe defendant concealing the suspect cannabis in his pants. Mr. Williams saw the bags on the floor, but he did not see how the bags got there, and did not see defendant with the suspect cannabis. Mr. Williams explained that the Ziplock bags of suspect cannabis were scattered on the floor as though they had been thrown. Mr. Williams did confirm, however, that he did not see the officers throw the suspect cannabis on the floor.

¶ 9 During rebuttal, the State called its investigator, Clarence Travis, who testified that when he interviewed Mr. Williams, Mr. Williams stated that he was picking up his cousin Amina Howard from the apartment when the police entered. On cross-examination, Mr. Travis admitted that although his written report transcribed verbatim his interview of Mr. Williams, there is nothing in the report that shows Mr. Williams stated he went to pick up Ms. Howard instead of Erica. Mr.

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Travis explained that he only recorded verbatim those items he thought were important.

¶ 10 The trial court found defendant guilty of possession of more than 10 grams but not more than 30 grams of cannabis, and not guilty of possession of cannabis with intent to deliver. Defendant was sentenced to one year of imprisonment.

¶ 11 During the hearing on defendant's motion to reconsider for a new trial, defense counsel argued that because Officer Corona testified that exhibit 4 showed only 7 bags of cannabis, rather than the 16 that defendant was found guilty of possessing, the court should reconsider its finding of guilt because there was a discrepancy as to the weight of the cannabis. According to defense counsel, Officer Corona testified on cross-examination that the photograph was taken prior to recovery of the evidence, thus, there were only seven bags found near defendant. The State countered that defense counsel showed Officer Corona a photograph of the evidence recovered from the apartment, but that it related to another defendant in another case. The court denied the motion.

¶ 12 Defendant appeals, contending that the State failed to prove beyond a reasonable doubt that he possessed more than 10 grams but not more than 30 grams of cannabis because Officer Corona's testimony showed a discrepancy as to how much cannabis was found near defendant, and because Officer Corona was an unreliable witness.

¶ 13 Where a defendant challenges the sufficiency of the evidence, the reviewing court must determine 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. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Ross*, 229 Ill. 2d 255, 272 (2008). The reviewing court must also construe all reasonable inferences in favor of the prosecution. *People v. Bush*, 214 Ill. 2d 318, 326 (2005). It is not the duty of the reviewing court to retry a defendant. Rather, the trier of fact determines witness credibility, weighs testimony, and draws reasonable inferences from the evidence. *Jackson*, 443 U.S. at 319.

¶ 14 To prove a defendant guilty of possession of a controlled substance, the State must prove,

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beyond a reasonable doubt, that the defendant had knowledge of the presence of the controlled substance and, that the defendant had immediate and exclusive possession or control of the controlled substance. *People v. Jackson*, 23 Ill. 2d 360, 364 (1961). Knowledge may be established by evidence of acts, declarations or, conduct of a defendant, from which it may be inferred that defendant knew of the existence of contraband. *People v. Chavez*, 327 Ill. App. 3d 18, 24 (2001). Possession can be actual or constructive. Actual possession is proved by testimony that the defendant exercised some dominion over the narcotics, such as having the narcotics on his person or, the defendant was seen trying to conceal or throw away the narcotics. *People v. Howard*, 29 Ill. App. 3d 387, 389 (1975). Further, "[h]iding drugs to avoid detection indicates an intent to exercise control over them." *People v. McLaurin*, 331 Ill. App. 3d 498, 503 (2002).

¶ 15 The State presented ample evidence, to prove beyond a reasonable doubt, that defendant had actual possession over the cannabis. Officer Corona testified that when he entered the apartment and commanded the occupants to get down on the floor, defendant did not comply. Instead, Officer Corona observed defendant attempt to conceal the Ziploc bags of suspect cannabis in his pants and, also, observed the bags fall to the floor. There were 16 bags of suspect cannabis recovered near defendant where he dropped them. The bags had green, dollar-sign logos on them. Officer Mitchem's stipulated testimony provided that he recovered 16 Ziploc bags of suspect cannabis from the floor near defendant after defendant was placed in custody. The parties stipulated to the chain of custody, weight, and composition of the 16 bags of cannabis. Defendant's attempt to conceal the suspect cannabis on his person not only establishes actual possession but, also, necessarily evinces his knowledge of the presence of the cannabis.

¶ 16 Defendant's argument that Officer Corona's testimony was not credible because he testified that exhibit 4 showed only 7 bags of cannabis with green, cannabis logos, rather than the 16 bags of cannabis with green, dollar-sign logos—which Officer Corona testified defendant attempted to conceal in his pants—is not persuasive. The State argues that defense counsel attempted to have

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Officer Corona testify to a photograph that did not depict the cannabis that Officer Corona observed defendant attempting to conceal in his pants, dropping them on the floor. Officer Corona did not explicitly reject the photograph as not fairly and accurately showing the suspect cannabis found near defendant. However, Officer Corona did testify that because Officer Xiques took the photograph while defendant was still lying on the floor next to the 16 bags of the suspect cannabis, the photograph should have also shown defendant near the suspect cannabis and, that defendant was not shown in the photograph.

¶ 17 Although Officer Corona was impeached on cross-examination regarding exhibit 4 and the amount of money recovered from defendant, and that impeachment casts some doubt on his credibility, he was not so clearly impeached that no rational trier of fact could find defendant guilty. It was the role of the trial court to determine whether Officer Corona's testimony regarding the photograph represented, as the State argues, simple confusion prompted by misleading cross-examination or, as defendant argues, such a basic discrepancy about the nature of the contraband as to call Officer Corona's entire testimony into question. By its guilty finding, the trial court made a determination that Officer Corona's testimony, on direct examination and redirect, was more convincing and credible than his testimony on cross-examination. Officer Corona's impeachment on cross-examination did not render the evidence so unreasonable, improbable, or unsatisfactory that there remains a reasonable doubt of defendant's guilt. *Bush*, 214 Ill. 2d at 326.

¶ 18 Moreover, the fact that the trial court found defendant guilty indicates that it did not find Mr. Williams's testimony as credible as Officer Corona's. Mr. Williams testified that defendant did not possess or attempt to conceal the narcotics, but this testimony is not supported by other evidence in the record. Defendant was playing cards at the kitchen counter and his back was facing Mr. Williams until the police arrived. According to Mr. Williams's testimony, his face was toward the floor after defendant complied with the order to get down on the floor, and Mr. Williams did not see whether defendant had anything in his hands. Mr. Williams further testified that only five to six

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police officers entered the apartment, while Officer Corona testified to 15 officers entering the apartment to execute the search warrant. This is a substantial difference. Finally, the State impeached Mr. Williams with testimony from its investigator Mr. Travis, who testified that Mr. Williams stated he was visiting a different occupant of the apartment. The fact that Mr. Travis did not include this statement in his written report did not so discredit his testimony as to render it incredible. Therefore, we cannot conclude that the trial court acted unreasonably when it implicitly rejected Mr. Williams's testimony.

¶ 19 Finally, defendant contends that the \$20 preliminary hearing fee he was ordered to pay was improper and, the fee was not statutorily authorized because there was no preliminary hearing. The State agrees defendant was incorrectly assessed the fee and that the fee should be vacated. Accordingly, we vacate the \$20 fee.

¶ 20 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County finding defendant guilty of possession of more than 10 grams but not more than 30 grams of cannabis and vacate the imposition of the \$20 preliminary hearing fee. We affirm the judgment in all other aspects.

¶ 21 Affirmed in part and vacated in part.