

No. 1-12-0869

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 11 CR 3534
)	
JEREL MOORE,)	Honorable
)	James M. Obbish,
Defendant-Appellant.)	Judge Presiding.

JUSTICE HALL delivered the judgment of the court.
Justices LAMPKIN and REYES concurred in the judgment.

ORDER

- ¶ 1 **Held:** The evidence was sufficient to prove that defendant knowingly possessed ammunition discovered in a bedroom of an apartment that contained proof of his residency, birth certificate, and other identifying information bearing his signature.
- ¶ 2 Following a bench trial, defendant Jerel Moore was convicted of unlawful use of a weapon by a felon for possession of ammunition and possession of a controlled substance. The court imposed concurrent prison terms of four years and two years for the respective offenses. On appeal, defendant asserts the State did not sufficiently prove he constructively possessed the ammunition which resulted in the conviction of unlawful use of a weapon by a felon. We affirm.

At trial, Officer Albert Wyroba testified that he and approximately 10 other officers executed a search warrant at the first floor apartment at 3525 West Douglas Boulevard about 6:15 p.m. on January 27, 2011. Prior to entering the apartment, Wyroba noticed a note on the door which directed Jerel, Little Dennis, Little Harron, and Big Dennis to take off their shoes before entering. After making a forced entry, Wyroba observed defendant coming out of the rear bedroom and detained him. Another officer found Harron Raggs, defendant's stepbrother, in the same bedroom and detained him. During the continuing search, Wyroba observed two front bedrooms, later identified as belonging to defendant's younger sister and his mother. The third and last bedroom was located in the rear, where defendant was found exiting. The rear bedroom contained men's clothing and several boxes of shoes.

¶ 3 While searching the rear bedroom, Wyroba and other officers discovered a bag containing 12 live rounds of ammunition underneath the bed. On the top of the dresser, the police found an envelope from the Illinois Department of Corrections (IDOC) directed to defendant at the address of the subject apartment. In a dresser drawer, Wyroba found IDOC paperwork, including a release plan that required defendant to remain at the subject apartment with his mother and a notice explaining that it was illegal for him to possess a firearm or ammunition. Both documents were signed by defendant. A certified copy of defendant's birth certificate was also recovered from the dresser drawer. In the kitchen, a nine millimeter handgun was found in a drawer underneath the kitchen table.

¶ 4 The search of the rear bedroom also revealed three packets of heroin on top of the dresser, a large plastic bag with numerous smaller baggies in the middle drawer of the dresser, and \$400 in a boot on the bedroom floor. On a television stand in the bedroom, an officer found a black pouch containing a bottle of Dormin, which Wyroba explained is often used to mix with heroin to create more quantity.

¶ 5 Wyroba testified that he was responsible for physically recovering all the evidence, which was turned over to Officer Andrew Kroll for inventory.

¶ 6 Officer Kroll testified that he participated in the execution of the search warrant and was the inventory officer who received the items from Officer Wyroba.

¶ 7 The parties stipulated that defendant was convicted of aggravated vehicular hijacking on April 10, 2008, and was on parole when the present search warrant was executed. The parties further stipulated that the three recovered packets weighed a total of .7 gram and the one packet which was tested contained .2 gram of heroin.

¶ 8 Harron Raggs, the sole defense witness, testified that he lived in the 3525 apartment with his mother (Vicky Moore), little sister (Denyeta Robinson), and two brothers (defendant and Dennis Robinson) since 2009. Raggs stated that only he lived in the rear bedroom and he kept the room locked. Defendant slept on the couch in the living room with his brother. Defendant kept his clothes in the closet in the hallway. Raggs denied ever seeing the packets of heroin, defendant's birth certificate, or the envelope from IDOC. He also denied knowledge of the ammunition found under the bed or the money in the boot. Raggs maintained that any letter found in the dresser drawer was probably a letter that defendant wrote to him when he was incarcerated. He also admitted to being convicted of possession of a controlled substance with intent to deliver in July 2011. The State asked Raggs if his address was 116 North Keeler when he was arrested for this offense, and Raggs explained that he lived there prior to moving to the subject apartment. He also denied he told police he lived at 3406 West Douglas in August 2010.

¶ 9 The court entered a directed finding in favor of defendant on the charges relating to the handgun. The court reasoned that because the gun was found in the kitchen, a common area, there was no direct evidence that defendant, to the exclusion of others, was the individual who possessed the gun.

¶ 10 The court found defendant guilty of unlawful use of a weapon by a felon for possession of ammunition and possession of a controlled substance. The court reasoned that the presence of defendant's IDOC documents and proof of residency in the dresser drawer clearly showed that defendant exercised dominion and control over the contents of that room. The court found Raggs not to be a credible witness, noting that Raggs denied the existence of all the items recovered from the rear bedroom and made up the existence of a purported letter written to him by defendant when defendant was in prison.

¶ 11 On appeal, defendant asserts that the State failed to prove that he knew about the hidden ammunition. Defendant observes that multiple persons lived in the apartment and the subject bedroom was potentially shared by three brothers.

¶ 12 When a defendant challenges the sufficiency of the evidence to sustain his conviction, the relevant question on review is whether, after considering the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). The trier of fact determines the credibility of witnesses, the weight to be given to their testimony, and the reasonable inferences to be drawn from the evidence. *People v. Collins*, 214 Ill. 2d 206, 217 (2005). A conviction will only be overturned where the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt.

Beauchamp at 8.

¶ 13 It is unlawful for a person to knowingly possess on or about his person, on his land or in his abode a firearm or firearm ammunition if the person has been convicted of a felony. 720 ILCS 5/24-1.1(a) (West 2010). Here, defendant does not dispute his status as a convicted felon on parole. Accordingly, the only element in dispute is possession of the ammunition.

¶ 14 Absent actual possession, as in the instant case, the State must prove constructive possession. To establish constructive possession, the State must prove beyond a reasonable doubt that the defendant had knowledge of the presence of the ammunition and exercised immediate and exclusive control over the area where the ammunition was found. *People v. McCarter*, 339 Ill. App. 3d 876, 879 (2003). "The defendant's control over the location where weapons are found gives rise to an inference that he possessed the weapons." *People v. Spencer*, 2012 IL App (1st) 102094, par. 17. "Habitation in the premises where contraband is discovered is sufficient evidence of control to constitute constructive possession." *Id.* The mere presence of contraband on premises under the control of the defendant gives rise to an inference of knowledge and possession. *People v. Smith*, 191 Ill. 2d 408, 413 (2000).

¶ 15 Here, the evidence established that defendant exercised control of the bedroom where the ammunition was found. Upon entering the apartment, Officer Wyroba found defendant exiting the subject bedroom. A search of the bedroom recovered an envelope from IDOC directed to defendant at the address of the apartment, defendant's birth certificate, and other documents with defendant's signature stored in a dresser drawer. Moreover, the IDOC papers notified defendant that he was required to remain at the subject apartment with his mother as a term of his release plan. In addition, the rear bedroom contained men's clothing. The personal documents found in the bedroom were sufficient evidence for the court to find that defendant exercised control and dominion of the bedroom. Although Raggs testified that he lived in the rear bedroom, the trial court found his testimony not to be credible because Raggs denied the existence of all the recovered items and fabricated the existence of a letter supposedly sent to him by defendant from prison. Furthermore, "[i]f two or more people share immediate and exclusive control or share the intention and power to exercise control, then each has possession." *People v. Scott*, 152 Ill. App. 3d 868, 871 (1987). From defendant's control of the bedroom the court could reasonably

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infer that defendant knew of the ammunition. Viewing all the evidence in the light most favorable to the State, as we must, coupled with the reasonable inferences drawn from the evidence, we find that a rational trier of fact could have found that defendant constructively possessed the ammunition recovered in the rear bedroom at the time of the search and that the State had proved the elements of the unlawful possession of a weapon by a felon beyond a reasonable doubt.

¶ 16 For the forgoing reasons, we affirm the judgment of the trial court.

¶ 17 Affirmed.