

No. 1-14-2148

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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. 13 CR 13487
)	
BRANDON WILLIAMSON,)	Honorable
)	Jorge Luis Alonso,
Defendant-Appellant.)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Cunningham and Justice Connors concurred in the judgment.

O R D E R

- ¶ 1 *Held:* Defendant's conviction for unlawful use or possession of a weapon by a felon affirmed where the evidence sufficiently established that he had constructive possession of the ammunition.
- ¶ 2 Following a bench trial, defendant Brandon Williamson was convicted of unlawful use or possession of a weapon by a felon (UUWF) for possessing firearm ammunition, and was sentenced to six years' imprisonment. On appeal, defendant solely contends that the State failed

to prove him guilty beyond a reasonable doubt because it failed to establish that he had constructive possession of the bullets where the police officer's testimony was not credible and the proof of residency was inadequate. We affirm.

¶ 3 At trial, Chicago police officer Daniel Kasper testified that about 5:03 p.m. on April 10, 2013, he was part of a team of officers that executed a search warrant at a single family residence at 2047 West 68th Place. Upon entering the home, police secured the residence by detaining two women and two small children who were present, then conducted a systematic search of the residence. Defendant was not present in the home when the search warrant was executed.

¶ 4 In the basement, Officer Kasper found a gym bag that contained a pair of blue jeans, and inside the right front pocket of those jeans, he found two .38-caliber live bullets and one .22-caliber live bullet. Inside that same pocket, he also found a sheet of paper that contained copies of defendant's birth certificate and social security card. The gym bag also contained four pieces of mail, all letters addressed to defendant. One envelope was addressed to him at 2047 West 68th Place, and was postmarked December 10, 2012. The other three envelopes were addressed to him at post office box 1700 in Galesburg, Illinois. One envelope was postmarked February 16, 2010, another was postmarked April 3, 2010, and the postmark on the final envelope was not discernible because it was covered by writing. The gym bag also contained another pair of men's pants and a men's shirt.

¶ 5 Officer Kasper further testified that about 6:54 p.m. on May 29, 2013, he observed defendant near 2052 West 68th Street. He recognized defendant from a photograph he was carrying and because defendant has a unique tattoo of a cross between his eyebrows directly above his nose. Officer Kasper stopped defendant and asked him his name, and when he replied

"Brandon Williamson," the officer advised him of his *Miranda* rights, placed him under arrest, and transported him to the police station.

¶ 6 During processing at the station, at which time Sergeant Artz was also present, Officer Kasper asked defendant where he was living, and defendant replied "2047 West 68th Place." Officer Kasper also asked defendant where he found the bullets that were recovered from the jeans, and defendant replied that he found them in an alley and picked them up.

¶ 7 On cross-examination, Officer Kasper acknowledged that he did not know how long the pair of jeans had been in the basement, nor did he know who had worn those jeans. He further acknowledged that he did not know who placed the bullets inside the jeans, and that he did not observe defendant place the bullets there. Officer Kasper also acknowledged that in his case report, he did not note that the jeans were found inside a gym bag, or that the mail addressed to defendant was found in that same bag. In addition, Officer Kasper acknowledged that defendant's statement that he found the bullets was not memorialized by any method of recording or writing, and defendant did not sign a written statement to that effect.

¶ 8 The State presented a stipulation that defendant had a prior conviction for aggravated unlawful use of a weapon under case number 08 CR 6988. The defense presented a stipulation that when defendant was released from the Illinois Department of Corrections (IDOC) on November 9, 2012, he provided the address of 1151 Williamsburg Road in Country Club Hills, Illinois, as his residence.

¶ 9 The trial court summarized the evidence presented and expressly found that Officer Kasper "testified credibly." The court pointed out that three letters were sent to defendant from different women and found that they were "obviously his letters." The court further stated "[h]e gave that address, and then he made a statement explaining how he came to be in possession of

the bullet. The statement is necessary to prove the case, and, of course, it's necessary that I believe Officer Kasper that the statement was made. I do." The court then found that despite the fact that defendant was not present when the bullets were recovered, all of the evidence taken together sufficiently established his possession of those bullets. Accordingly, the trial court found that defendant was proven guilty beyond a reasonable doubt of UUWF.

¶ 10 On appeal, defendant solely contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to establish that he had constructive possession of the bullets recovered from the residence on 68th Place. Defendant argues that the testimony from Officer Kasper was not sufficient to sustain his conviction because that testimony was impeached by the officer's case report in which he omitted fundamental details of the offense, including that the bullets were found inside a pocket of a pair of jeans in a gym bag. Defendant also claims that Officer Kasper's testimony that defendant made a statement about finding the bullets was not credible because it was not memorialized in any manner, and Sergeant Artz did not testify to corroborate the statement. In addition, defendant argues that the proof of residency was inadequate because the mail was too old to be of probative value, and his stipulation showed that he told IDOC that he lived in Country Club Hills.

¶ 11 When defendant claims that the evidence is insufficient to sustain his conviction, this court must determine whether any rational trier of fact, after viewing the evidence in the light most favorable to the State, could have found the elements of the offense proved beyond a reasonable doubt. *People v. Baskerville*, 2012 IL 111056, ¶ 31. 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." *Baskerville*, 2012 IL 111056, ¶ 31.

¶ 12 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 from therein. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). We will not reverse a criminal conviction based upon insufficient evidence unless the evidence is so improbable or unsatisfactory that there is reasonable doubt as to defendant's guilt (*People v. Givens*, 237 Ill. 2d 311, 334 (2010)), nor simply because defendant claims that a witness was not credible or that the evidence was contradictory (*Siguenza-Brito*, 235 Ill. 2d at 228).

¶ 13 To prove defendant guilty of unlawful use or possession of a weapon by a felon as charged in this case, the State was required to show that he knowingly possessed firearm ammunition in his own abode, and that he had a prior felony conviction for aggravated UUW. 720 ILCS 5/24-1.1(a) (West 2012). Defendant acknowledges that the State proved that he had a prior felony conviction.

¶ 14 Possession of contraband may be either actual or constructive. *Givens*, 237 Ill. 2d at 335. Where, as here, defendant is not found in actual physical possession of the ammunition, the State must prove that he had constructive possession. *People v. Spencer*, 2012 IL App (1st) 102094, ¶ 17. Constructive possession exists where defendant had knowledge of the presence of the ammunition and had immediate and exclusive control over the location where it was found. *Id.* Knowledge may be demonstrated by evidence of defendant's declarations, acts, or conduct from which it can be inferred that he knew the contraband existed in the place where it 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). Constructive possession may be inferred from the evidence by the trier of fact and is often established by entirely circumstantial evidence. *People v. McCarter*, 339 Ill. App. 3d 876, 879 (2003).

¶ 15 Defendant's habitation in the premises where contraband is found is sufficient evidence of his control of the location to establish constructive possession. *Spencer*, 2012 IL App (1st) 102094, ¶ 17. Case law clearly shows that mail addressed to a defendant and found where contraband is recovered may be sufficient evidence to infer his residency, and thus, control of the location when considered in combination with other indicia of residency or an admission of residency. *People v. Maldonado*, 2015 IL App (1st) 131874, ¶ 29. See also *McCarter*, 339 Ill. App. 3d at 879 (weapons found in and on a dresser together with mail addressed to defendant at that residence combined with defendant's prior statements that he lived there was sufficient to establish his control, and thus, constructive possession of the weapons).

¶ 16 Here, viewed in the light most favorable to the State, we find that the evidence was sufficient for the trial court to find that defendant had constructive possession of the bullets recovered from the jeans pocket. Officer Kasper testified that while searching the basement at 2047 West 68th Place, he recovered two .38-caliber live bullets and one .22-caliber live bullet from the right front pocket of a pair of jeans that was inside of a gym bag. In that same pocket, he found a piece of paper that had copies of defendant's birth certificate and social security card. The gym bag also contained four letters addressed to defendant, one of which was addressed to 2047 West 68th Place and postmarked December 10, 2012, four months prior to the search. In addition to the recovered physical evidence, Officer Kasper testified that while processing defendant at the police station, he asked defendant where he lived, and defendant replied "2047

West 68th Place." Officer Kasper also asked defendant where he found the bullets, and defendant admitted that he found them in an alley and picked them up.

¶ 17 Defendant's statement that he found the bullets established his knowledge of the presence of the ammunition. Furthermore, the mail addressed to defendant and found in the same gym bag with the bullets, combined with the copies of his birth certificate and social security card, as well as his statement to police that he lived at the address on 68th Place, was sufficient to prove he resided at that address. We therefore find that the evidence established defendant's control over the location where the bullets were found, and thus, his constructive possession of the ammunition.

¶ 18 In reaching this conclusion, we reject defendant's claims that Officer Kasper's testimony was impeached by the omissions in his case report, and that his testimony regarding defendant's statement was not credible. As the trier of fact, it was the responsibility of the trial court to determine the credibility of the witness, and here, the trial court expressly found that Officer Kasper "testified credibly." The court also noted that defendant's statement was necessary for the State to prove its case, then stated "it's necessary that I believe Officer Kasper that the statement was made. I do." We acknowledge the trial court's superior position to assess the credibility of the witnesses, observe their demeanor and weigh their testimony, and we find no reason to disturb its findings in this case. *People v. Austin*, 349 Ill. App. 3d 766, 769 (2004).

¶ 19 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 20 Affirmed.