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2022 IL App (3d) 210093-U

Order filed June 22, 2022

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2022

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
	)	Peoria County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-21-0093
v.	)	Circuit No. 19-CF-391
	)	
SHAUNTA EASTON,	)	Honorable
	)	Kevin W. Lyons,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice O'Brien and Justice Hauptman concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The State proved defendant guilty beyond reasonable doubt of possession of a controlled substance with the intent to deliver. (2) The court did not impose an excessive sentence.

¶ 2 Defendant, Shaunta Easton, appeals her conviction for possession of a controlled substance with the intent to deliver. Defendant argues that (1) the State presented insufficient evidence to sustain her conviction, and (2) the Peoria County circuit court failed to consider factors in mitigation, resulting in an excessive sentence of 17 years' imprisonment. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant, by indictment, with unlawful possession with the intent to deliver a controlled substance of more than 900 grams of cocaine, a Class X felony (720 ILCS 570/401(a)(2)(D) (West 2018)). The matter proceeded to a jury trial.

¶ 5 Officer Aaron Zaborac with the Peoria Police Department testified that on June 5, 2019, he conducted surveillance on unit 908 at a storage facility. During surveillance, Zaborac observed a pickup truck park in front of unit 908. Defendant exited the passenger side door, entered unit 908, and made several trips back to the truck. Zaborac could not see what defendant was doing inside the storage unit.

¶ 6 Officer Nicholas Mason testified that he executed a search warrant on unit 908 on June 26, 2019. Mason located a backpack in the unit that contained a metal measuring cup, several plastic sandwich bags, two digital scales, latex gloves, and a Tupperware container with suspected cocaine. In a black bag, Mason located smaller bags of suspected cocaine and a large single package of suspected cocaine. Mason identified the large package of suspected cocaine as People's exhibit No. 14. Also in the unit were two boxes of sandwich bags, loose sandwich bags with torn-off corners, and additional latex gloves.

¶ 7 The State entered a video recording of the search of the storage unit. The recording showed a small unit that contained a stove, a shop vac, vehicle bumper, a black bag, and a bin with a medicine cabinet on top. Inside the bin, officers located the small backpack.

¶ 8 The State entered a stipulation that a forensic analyst would testify that People's exhibit No. 14 was 1001.9 grams of cocaine.

¶ 9 Investigator Dave Logan testified that he executed a search warrant on June 26, 2019, on 7111 North Miramar Drive, Peoria, apartment number seven, and the Chevrolet van located at that

residence. The search warrant named defendant and Jason Malone, who were located inside the residence at the time of the search. The residence was leased to defendant, and the van was registered to defendant. Inside the van, Logan found keys to unit 908.

¶ 10 On cross-examination, Logan stated that the residence could have also listed Malone on the lease.

¶ 11 The State entered a video recording of the search of the apartment into evidence. The recording showed a two-bedroom apartment containing furniture, clothing hanging in closets, dishes in the sink, and other personal items. The video also showed the various locations throughout the apartment that officers discovered large amounts of money including $35,000, $15,000, $2400, $2000, $350, and $103.

¶ 12 Sergeant Matthew Lane testified that he aided in executing the search warrant for the apartment. On cross-examination, Lane stated that he located mail addressed to defendant and Malone in the residence.

¶ 13 Officer Brenden Westart testified that during the search of the van, he located three plastic bags in the front center console filled with several smaller bags of suspected crack cocaine, powder cocaine, and illicit pills. Westart also found two photographs of defendant and Malone.

¶ 14 The State entered a video recording of the search of the van, which showed various sizes of small plastic twisted-off bags with a white powdery substance stored in larger plastic bags. Officers also located a box of sandwich bags next to the driver's seat and a digital scale under the front passenger seat.

¶ 15 Officer Eric Barisch testified that he located a Tupperware container with suspected cocaine in the kitchen during the search of the residence. Barisch described the suspected cocaine as a white, powdery, chunky substance.

¶ 16 Officer Corey Miller testified that he located defendant and Malone's passport and a money counter during the search of the residence. Officers collectively located approximately $55,000 in cash at the residence. Miller also testified as an expert in drug packaging, drug sales, and the tendencies of drug dealers. Miller indicated that People's exhibit No. 14 was a significant amount and, in its manufactured and packaged form, could be valued up to $35,000. Miller explained that a manufacturer breaks the cocaine from the brick and either cooks it into crack cocaine or sells the cocaine on its own. The plastic baggies located in the storage unit are commonly used for packaging smaller amounts of cocaine. The bags are twisted, tied off, and then cut away from the knotted portion. The smaller baggies are then weighed on a scale to determine the price. The cocaine found in the van is the working product of the total cocaine that belongs to the seller. Typically, an individual would keep the larger amount of cocaine away from the location they are selling from to avoid the possible penalty of possessing the entire amount. Miller explained that latex gloves are used to prevent the exposure of an individual's fingerprints to an item and prevent exposure to Fentanyl.

¶ 17 Malone testified on defendant's behalf that at the time of defendant's arrest for the present offense, he and defendant were in a romantic relationship. Malone pled guilty to the same offenses that defendant presently faced.

¶ 18 On cross-examination, Malone stated that at his sentencing hearing he admitted to selling cocaine. Malone implicated defendant because he "wanted to get it off" himself. Malone did not recall informing officers that defendant "cooked the crack" at the house.

¶ 19 The jury found defendant guilty, and the matter proceeded to sentencing. The State informed the court that defendant faced a sentencing range of 15 to 60 years' imprisonment. The court considered the presentence investigation report (PSI), the evidence and arguments presented,

defendant's statement in allocution, the statutory factors in aggravation and mitigation, the history and character of defendant, and the circumstances and nature of the offense. Specifically, the court distinguished the severity of the offense from other nonviolent offenses such as shoplifting or disorderly conduct, noting that defendant's first crime was a Class X felony. The court addressed defendant's lack of criminal history, stating that defendant was 41 years old and up until the present offense had "hardly crossed the street against the light." The court acknowledged that defendant's conviction would be a shock to most people that knew her. The court sentenced defendant to 17 years' imprisonment. Defendant appealed.

¶ 20 II. ANALYSIS

¶ 21 A. Sufficiency of the Evidence

¶ 22 Defendant argues the State failed to prove her guilty beyond a reasonable doubt of unlawful possession with the intent to deliver a controlled substance because the evidence failed to establish that she constructively possessed the cocaine found in the storage unit.

¶ 23 When a defendant makes 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.' " (Emphasis in original.) *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant." *Id.* Thus, "the reviewing court must allow all reasonable inferences from the record in favor of the prosecution." *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). "A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt." *People v. Belknap*, 2014 IL 117094, ¶ 67.

¶ 24 To prove defendant guilty of unlawful possession of unlawful possession with intent to deliver more than 900 grams of a controlled substance, the State was required to show defendant knowingly "possess[ed] with intent to manufacture or deliver, a controlled substance" of more than 900 grams. 720 ILCS 570/401(a)(2)(D) (West 2018).

¶ 25 "Constructive possession exists where there is no actual, personal, present dominion over contraband, but defendant had knowledge of the presence of the contraband, and had control over the area where the contraband was found." *People v. Hunter*, 2013 IL 114100, ¶ 19. A trier of fact may infer knowledge from the surrounding circumstances, such as the defendant's actions, declarations, or other conduct, which indicate that the defendant knew the contraband existed in the place where it was found. *People v. McLaurin*, 331 Ill. App. 3d 498, 502 (2002). Control is established when defendant has the capability and intent to maintain dominion and control over the contraband. *People v. Spencer*, 2012 IL App (1st) 102094, ¶ 17. Proof that a defendant had control over the premises where the contraband is found gives rise to an inference of knowledge and possession of the contraband. *People v. Givens*, 237 Ill. 2d 311, 335 (2010).

¶ 26 "Habitation of the location where contraband is found can constitute sufficient evidence of control to establish constructive possession." *People v. Maldonado*, 2015 IL App (1st) 131874, ¶ 29. "Evidence of *** habitation often takes the form of rent receipts, utility bills, or mail." *People v. Fernandez*, 2016 IL App (1st) 141667, ¶ 19. Constructive possession is not diminished by evidence of others' access to contraband. *Givens*, 237 Ill. 2d at 338. Nevertheless, "[w]here there is no evidence that the defendant controls the premises, proof of mere presence, even combined with defendant's knowledge of [contraband], will not support a finding of constructive possession unless there is other circumstantial evidence of defendant's control over the contraband." *People v. Tates*, 2016 IL App (1st) 140619, ¶ 20.

¶ 27 In the present case, defendant's observed use of storage unit 908 established constructive possession of the 1001.9 grams of cocaine subsequently found within the unit. Moreover, defendant was more than merely present at the unit, as the keys to unit 908 were discovered in a van registered to defendant and located outside of an apartment leased to defendant. As further evidence of defendant's knowledge, police discovered several plastic bags containing smaller bags of suspected crack cocaine, powder cocaine, and illicit pills in the van. Additionally, inside the apartment, police found nearly $55,000 in cash, a Tupperware container with suspected cocaine residue, and a money counting machine. The evidence established that defendant resided at this apartment as defendant's passport, mail, and other personal items were discovered inside. See *People v. Hill*, 226 Ill. App. 3d 670, 673 (1992) (" 'When the relationship of others to the contraband is sufficiently close to constitute possession, the result is not vindication of the defendant, but rather a situation of joint possession.' " (Emphasis omitted.) (quoting *People v. Williams*, 98 Ill. App. 3d 844, 849 (1981))). Together, this evidence established that defendant had knowledge of and control over the 1001.9 grams of cocaine found in unit 908.

¶ 28 Additionally, the large amount of cocaine, Tupperware container with suspected cocaine, two digital scales, a black bag with smaller bags of cocaine, a measuring cup, sandwich bags with the corners torn off, two boxes of sandwich bags, and latex gloves all located in the storage unit inferentially established defendant's intent to manufacture and deliver the cocaine. See, *e.g.*, *People v. Clark*, 406 Ill. App. 3d 622, 631 (2010) (the court found that 24 individual packets of heroin found on defendant was "an amount and packaging technique highly indicative of one's intent to deliver rather than to personally consume"). Therefore, the State presented sufficient evidence to prove defendant guilty beyond a reasonable doubt of unlawful possession with the intent to deliver a controlled substance.

¶ 29 B. Excessive Sentence

¶ 30 Defendant argues that the court imposed an excessive sentence where defendant was convicted of a nonviolent offense and had no prior criminal history, and thus, should have received the minimum sentence of 15 years' imprisonment.

¶ 31 The circuit court has wide latitude in sentencing a defendant to any term prescribed by statute, "[a]s long as the court does not consider incompetent evidence, improper aggravating factors, or ignore pertinent mitigating factors." *People v. Hernandez*, 204 Ill. App. 3d 732, 740 (1990). Relevant sentencing considerations include the nature of the crime, the public's protection, deterrence, punishment, and the defendant's rehabilitative potential. *People v. Kolzow*, 301 Ill. App. 3d 1, 8 (1998). In mitigation, a court shall consider: (1) that defendant's "conduct neither caused nor threatened serious physical harm to another," and (2) defendant's lack of prior delinquency and criminal conduct or that he has led a law-abiding life for a substantial period of time before the commission of the present crime. 730 ILCS 5/5-5-3.1(1), (7) (West 2018). The weight that the court should attribute to any factors in aggravation and mitigation depends on the particular circumstances of the case. *Kolzow*, 301 Ill. App. 3d at 8. The court is not required to cite each factor it considered in fashioning a defendant's sentence. *People v. Perkins*, 408 Ill. App. 3d 752, 763 (2011).

¶ 32 We review the circuit court's sentencing determination for an abuse of discretion. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). We will find an abuse of discretion only where the court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the court. *People v. Hall*, 195 Ill. 2d 1, 20 (2000). We will not disturb a sentence within the applicable sentencing range unless the circuit court abused its discretion. *Stacey*, 193 Ill. 2d at 209-10.

¶ 33 At the outset, we note that as defendant was charged, the statutory sentencing range for unlawful possession with the intent to deliver more than 900 grams of cocaine, a Class X felony, is 15 to 60 years' imprisonment. See 720 ILCS 570/401(a)(2)(D) (West 2018). Defendant's 17-year prison sentence is well within the statutory range. Therefore, defendant's sentence is presumptively valid, and defendant bears the burden to rebut this presumption. See *People v. Sauseda*, 2016 IL App (1st) 140134, ¶ 12.

¶ 34 During the sentencing hearing, the court stated that it considered the factors in aggravation and mitigation as well as the information in the PSI. Defendant cites to nothing in the record that shows the court dismissed defendant's lack of criminal history. Instead, the record shows that the court expressly considered defendant's age, lack of criminal history, and the nonviolent nature of the offense. Ultimately, the court determined that defendant's lack of criminal history and other mitigating evidence did not significantly depreciate the seriousness of the offense or warrant the imposition of the minimum sentence. Therefore, we conclude that the court did not abuse its discretion in sentencing defendant.

¶ 35 III. CONCLUSION

¶ 36 The judgment of the circuit court of Peoria County is affirmed.

¶ 37 Affirmed.