

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEROY ARNOLD FLOYD,

Defendant-Appellant.

UNPUBLISHED

August 23, 2005

No. 253613

Oakland Circuit Court

LC No. 2001-177150-FH

Before: Zahra, P.J. Cavanagh, and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial conviction of one count of possession with the intent to deliver less than fifty grams of a controlled substance (cocaine), MCL 333.7401(1), (2)(a)(iv). Defendant was sentenced as a third habitual offender, MCL 769.11, to a prison term of two to forty years. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant argues that insufficient evidence was adduced at trial to support his conviction. We disagree. When reviewing the sufficiency of the evidence, we view the evidence in a light most favorable to the prosecution. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999). We defer to the factual findings and credibility determinations of the jury. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992). The prosecution may use circumstantial evidence and all reasonable inferences arising from that evidence to prove its case. *People v Hardiman*, 466 Mich 417, 421-422, 425-426; 646 NW2d 158 (2002).

Viewing the evidence presented in a light most favorable to the prosecution and deferring to the jury's determinations of fact and credibility, we conclude that there was sufficient evidence presented to support defendant's conviction. The arresting undercover officers testified that a prostitution suspect they were investigating contacted a man named Leroy and requested that he deliver drugs to her motel room. Defendant arrived at the room, and identified himself as "Leroy." When the officers identified themselves, a struggle ensued. During the struggle, defendant put his hands to his waistband and fell face first on the part of bed where cocaine was eventually found. The officers also testified that the room was searched before being used and that the prostitution suspect was never out of their sight while she was in the room. The officers testified that no one, except themselves and defendant, had access to the part of the bed where cocaine was found. Inferring from the evidence presented that the police had previously searched the room and found no drugs in the bed and that defendant had something in his

waistband and fell on the part of the bed where cocaine was eventually found, a rational jury could conclude that defendant, who had been called to the room to deliver drugs, possessed the cocaine found in the bed.

Defendant notes that others, specifically the prostitution suspect, had access to the bed. Defendant also notes that the evidence established that the prostitution suspect had bags containing cocaine residue in the room and on the bed before defendant arrived. However, the prosecution is not required to disprove all defenses raised by a defendant. *People v Mette*, 243 Mich App 318, 326; 621 NW2d 713 (2000).

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Donald S. Owens