

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
February 17, 2011

v

WILLIE JAMES WALLACE,
Defendant-Appellant.

No. 295975
Wayne Circuit Court
LC No. 09-023413-FH

Before: HOEKSTRA, P.J., and FITZGERALD and BECKERING, JJ.

PER CURIAM.

A jury convicted defendant of possession of a firearm by a person convicted of a felony, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant as an habitual offender, fourth offense, MCL 769.12, to consecutive prison terms of 1-1/2 to 15 years for felon in possession and five years for felony-firearm (second offense). Defendant appeals as of right. We affirm.

Defendant argues that the evidence presented did not support a finding that defendant possessed a firearm and, therefore, his felon in possession conviction should be vacated. We review sufficiency of the evidence claims de novo, viewing the evidence in the light most favorable to the prosecution to determine if the evidence was sufficient for a rational trier of fact to find the defendant guilty beyond a reasonable doubt. *People v McGhee*, 268 Mich App 600, 622; 709 NW2d 595 (2005). “Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of the crime.” *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005).

MCL 750.224f prohibits a person convicted of a felony from possessing a firearm until the right of possession is restored and other requirements are satisfied. *People v Perkins*, 473 Mich 626, 628; 703 NW2d 448 (2005). “Possession” may be physical or constructive and proved by circumstantial or direct evidence. *People v Burgenmeyer*, 461 Mich 431, 437-438; 606 NW2d 645 (2000); *People v Hill*, 433 Mich 464, 469-470; 446 NW2d 140 (1989). “A defendant has constructive possession of a firearm if the location of the weapon is known and . . . reasonably accessible to the defendant.” *Burgenmeyer*, 461 Mich at 438.

The parties stipulated to defendant’s prior felony conviction. Defendant’s sole argument is that there was not sufficient evidence to prove that he possessed a firearm. We disagree. The prosecutor presented evidence that police officers observed defendant in physical possession of a

firearm outside of the house and also when he was running into the house. Defendant ran into the basement, and no longer possessed a gun when he came back upstairs approximately five or six second later. Officers later recovered a gun from the basement. Viewed in the light most favorable to the prosecution, this evidence was sufficient to allow the jury to reasonably infer that the firearm police found in the basement was the same firearm that officers observed defendant carrying before he went into the basement.

Affirmed.

/s/ Joel P. Hoekstra
/s/ E. Thomas Fitzgerald
/s/ Jane M. Beckering