

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD RENALDO HOWARD,

Defendant-Appellant.

UNPUBLISHED

March 6, 2007

No. 266552

Oakland Circuit Court

LC No. 2004-198157-FH

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of possession of 50 or more but less than 450 grams of cocaine, MCL 333.7403(2)(a)(iii), and unauthorized possession, retention, or secreting of a financial transaction device, MCL 750.157n(1). He was sentenced as a third habitual offender, MCL 769.11, to concurrent prison terms of 6-1/2 to 40 years for the possession of cocaine conviction and 2 to 8 years for the financial transaction device conviction. He appeals as of right, asserting that the evidence was insufficient to prove that he possessed cocaine.¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

“The test for determining the sufficiency of evidence in a criminal case is whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt.” *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000). Possession of a controlled substance may be actual or constructive. *People v Wolfe*, 440 Mich 508, 519-520; 489 NW2d 748 (1992). Constructive possession has been found where a person has a right to exercise control over the controlled substance and knew that it was present. *Id.* at 520. “Constructive possession exists when the totality of the circumstances indicates a sufficient nexus between the defendant and the contraband.” *People v Johnson*, 466 Mich 491, 500; 647 NW2d 480 (2002).

Viewed in a light most favorable to the prosecutor, the evidence was sufficient to establish a sufficient connection between defendant and the cocaine to support an inference that

¹ Contrary to what defendant asserts in his brief, the record discloses that defendant was convicted of simple possession, not possession with intent to deliver the cocaine.

defendant knew that the cocaine was present in the Lexus automobile that defendant was driving and had the right to exercise control over the cocaine. Although defendant did not own the vehicle, the evidence supports a reasonable inference that he repeatedly drove the vehicle during the months preceding the traffic stop. Defendant was driving the vehicle at the time of the traffic stop and the cocaine was found in a drawer under the driver's seat. A receipt containing defendant's real name and a credit card belonging to defendant's friend were discovered during the initial search of the drawer, and there was evidence that defendant had been using his friend's name and could have taken the credit card from his friend's home. Defendant acted nervously during the traffic stop and the officer saw defendant moving around in the vehicle. After defendant's arrest, a woman appeared at the police station, claimed to be defendant's wife, and sought access to the impounded vehicle. Viewed in a light most favorable to the prosecution, the circumstantial evidence was sufficient to enable the jury to find beyond a reasonable doubt that defendant constructively possessed the cocaine that was found in the vehicle.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kurtis T. Wilder