

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ANGELA MARIE CLARK,

Defendant-Appellee.

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UNPUBLISHED

February 12, 2004

No. 241149

Oakland Circuit Court

LC No. 01-180716-FH

Before: Fitzgerald, P.J., and Neff and White, JJ.

PER CURIAM.

Defendant was charged with possession of less than fifty grams of cocaine with intent to deliver, MCL 333.7401(2)(a)(iv), possession of less than five kilograms of marijuana with intent to deliver, MCL 333.7401(2)(d)(iii), and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court granted defendant's motion to quash, finding that the evidence was insufficient to show possession of the contraband. The prosecutor appeals as of right and we reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court's review of the circuit court's analysis of the bindover process is de novo. This Court must redetermine if the magistrate committed an abuse of discretion in finding probable cause to believe that defendant committed the offenses charged. This Court decides whether the evidence presented to the magistrate was sufficient to establish, as a matter of law, that the offenses charged had probably been committed by defendant. There must be evidence of each element of the crime charged or evidence from which the elements can be inferred, although the evidence need not establish guilt beyond a reasonable doubt. *People v McBride*, 204 Mich App 678, 681; 516 NW2d 148 (1994). If the evidence conflicts or otherwise creates a reasonable doubt concerning defendant's guilt, the defendant should be bound over for resolution of the issue by the trier of fact. *People v Selwa*, 214 Mich App 451, 457; 543 NW2d 321 (1995).

Possession of a controlled substance indicates dominion or right of control over the drug with knowledge of its presence and character. *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000). The defendant need not own or have actual physical possession of the substance to be found guilty of possession; constructive possession is sufficient. *People v Wolfe*, 440 Mich 508, 519-520; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Constructive possession, which may be sole or joint, is the right to exercise control over the drug coupled with knowledge of its presence. *Id.* at 520. Possession may be proved by circumstantial evidence and

any reasonable inferences drawn therefrom. *Nunez, supra*. The defendant's mere presence at a place "where drugs are found is insufficient to prove constructive possession. Instead, some additional connection between the defendant and the contraband must be shown." *People v Echavarria*, 233 Mich App 356, 370; 592 NW2d 737 (1999).

The evidence showed that defendant was found in the house while police were executing a search warrant. The house was listed as defendant's residence on her driver's license. Documents addressed to defendant at the house, along with women's clothing and perfume, were found in the master bedroom where the cocaine, marijuana, and weapons were located. Such evidence was sufficient to create probable cause to believe that defendant had constructive possession of the contraband. *People v Hardiman*, 466 Mich 417, 423; 646 NW2d 158 (2002).

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff