

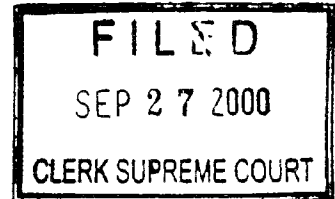
IN THE COURT OF APPEALS OF IOWA

No. 0-534 / 99-1816
Filed September 27, 2000

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ERIC ALANDA MIMS,
Defendant-Appellant.



Appeal from the Iowa District Court for Polk County, Artis Reis, Judge.

Defendant appeals from the judgment and sentence entered upon jury verdicts finding him guilty of possession of a controlled substance and failure to affix a drug tax stamp. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Denise A. Timmins, Assistant Attorney General, John P. Sarcone, County Attorney, and Daniel Voogt and Stephanie Cox, Assistant County Attorneys, for appellee.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

HUTINK, P.J.

Eric Mims challenges the sufficiency of the evidence supporting his conviction for possession of a controlled substance and failure to possess a tax stamp in violation of Iowa Code sections 124.401(5), 453B.3, and 453B.12. We affirm.

1. Background Facts and Proceedings.

Mims was one of several people charged with multiple drug crimes following a warrantless search of a Des Moines residence. According to the State's version of events, police officers encountered Mims alone in a bedroom of this residence. Several "crack baggies" were found lying on the bedroom floor and several rocks of crack cocaine were found in a shoe lying in an adjacent hallway. Police also found Deborah Green in this hallway stuffing cash into her bra. All of these items were seized and offered as evidence supporting the charges against Mims. In addition to the items seized, the State also relied on testimony from a codefendant that Mims was a known drug dealer and that the codefendant had previously purchased drugs from Mims at the residence searched.

Mims denied possession or knowledge of the drugs seized. He claimed the drugs belonged to others and were under Green's possession and control at the time they were seized. Mims's motion for judgment of acquittal citing the State's failure to prove he knowingly possessed any controlled substances was overruled. He was convicted as charged, resulting in this appeal.

II. Standard of Review.

The standard of review in an insufficiency of evidence claim is for correction of errors at law. *State v. Thomas*, 561 N.W.2d 37, 39 (Iowa 1997). The evidence is to be viewed in the light most favorable to the State and we must accept as established all reasonable inferences tending to support the jury's action. *State v. Schurman*, 205 N.W.2d 732, 733 (Iowa 1973). It is necessary to consider only the supporting evidence whether contradicted or not. *State v. Reeves*, 209 N.W.2d 18, 21 (Iowa 1973). It is the task of the fact finder to resolve questions of fact and assess the credibility of witnesses. *Id.* A finding of guilt is binding on the appellate court unless without substantial support in the record. *Id.*

III. The Merits.

There are three elements necessary to prove possession of a controlled substance: (1) dominion and control of the substance; (2) knowledge of its presence; and (3) knowledge of its nature. *State v. Rudd*, 454 N.W.2d 570, 571 (Iowa 1990). The knowledge required for the second and third elements can be, and because of their subjective nature often must be, inferred. *Id.*

The supreme court has addressed the distinction between actual and constructive possession in this context, stating:

Constructive possession is all that is necessary and occurs when the accused maintains control or a right to control the narcotic; possession may be imputed when the contraband is found in a place which is immediately and exclusively accessible to the accused and subject to his dominion and control, or to the joint dominion and control of the accused and another.

Reeves, 209 N.W.2d 18 at 22.

When viewed in this light, the State's evidence is sufficient to support its constructive possession theory. As noted earlier, there is evidence Mims was a known drug dealer who used the residence searched to sell drugs. The discovery of crack baggies in the room where Mims was found and crack cocaine in the adjacent hallway also supports the State's theory. Moreover, the jury, as the finder of fact, was free to accept or reject Mims's claim that the seized drugs were under Green's exclusive possession or control.

The judgment of the district court is affirmed.

AFFIRMED.