IN THE COURT OF APPEALS OF IOWA 000353

No. 7-598 / 96-2116

FILED
NOV 25 1997
CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

ERIC HEPPERLE,

Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Thomas N. Bower, Judge.

Defendant appeals from the judgment and sentence entered upon his convictions for possession of a controlled substance with intent to deliver in violation of Iowa Code section 124.401(1)(d) (1995) and failure to affix a drug tax stamp in violation of Iowa Code section 453B.12. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Shellie L. Knipfer, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kimberly Griffith, Assistant County Attorney, for appellee.

Considered by Sackett, P.J., and Streit and Vogel, JJ.

PER CURIAM.

Defendant-appellant Eric Hepperle appeals from the judgment and sentence entered after his convictions for possession of a controlled substance with intent to deliver in violation of Iowa Code section 124.401(1)(d) (1995) and failure to affix a drug tax stamp in violation of Iowa Code section 453B.12. He challenges the sufficiency of the evidence to support the convictions. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court rule 9.

Defendant resided in a home with his grandfather. Only defendant and his grandfather had access to the home. There were locked areas in the house where only defendant had access.

On one occasion defendant's grandfather saw defendant come from the attic of the house carrying a large sack. Defendant told his grandfather the contents of the sack was not "ditch weed" but "really good stuff" and he was going to sell it. Defendant's grandfather told defendant to get it out of the house and keep it out. Defendant's grandfather subsequently discovered a number of marijuana plants in the attic. He talked to his pastor about the situation. The police were contacted.

Defendant's grandfather consented to the police searching the home. They found the marijuana in the attic in sufficient quantity to require a drug stamp. They obtained a search warrant for the locked areas where only defendant had access. There they found a film canister containing marijuana seeds.

The State charged defendant with possession of marijuana with the intent to deliver and failure to affix a drug tax stamp. A jury found defendant guilty as charged.

On appeal, defendant challenges the sufficiency of the evidence to support his convictions. He contends the State failed to establish that he had knowledge or constructive possession of the marijuana in the attic. He claims his grandfather's testimony is not credible.

A jury's guilty verdict is binding upon us unless we conclude the record lacks substantial evidence to support such a finding. *State v. Bush*, 518 N.W.2d 778, 779 (Iowa 1994). Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. *State v. Taft*, 506 N.W.2d 757, 762 (Iowa 1993).

We view the evidence in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the record. *State v. Bass*, 349 N.W.2d 498, 500 (Iowa 1984). We consider all the evidence at trial, not just the evidence that supports the verdict. *State v. Liggins*, 524 N.W.2d 181, 186 (Iowa 1994).

There is substantial evidence to support a finding defendant was guilty of the charge. We affirm defendant's conviction.

AFFIRMED.