

Circuit Court for Dorchester County
Case No. C-09-CR-20-000158

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1253

September Term, 2021

TRAMAINE RONDALE THOMAS

v.

STATE OF MARYLAND

Graeff,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 27, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Convicted by a jury in the Circuit Court for Dorchester County of possession of fentanyl with intent to distribute, possession of fentanyl, possession of a firearm during and in relation to a drug trafficking crime, illegal possession of a firearm after conviction of a felony, illegal possession of bulletproof body armor, and illegal possession of ammunition, Tramaine Rondale Thomas, appellant, presents for our review a single issue: whether the evidence is sufficient to sustain the convictions. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Maryland State Police Sergeant Joseph Myers, who testified that on June 23, 2020, he “participate[d] in the execution of a search and seizure warrant at” a residence located at 616 Greenwood Avenue, Apartment 102, in Cambridge. During the search, officers seized “a black plastic bag found inside of a jacket in a bedroom which contained a cardboard box which contained [f]entanyl and packaging,” “a Newport cigarette box containing . . . CDS packaging, typically heroin . . . or [f]entanyl packaging,” and another “Newport box that . . . contained amounts of CDS packaged.” The officers also discovered “a paper related to [Mr. Thomas’s] prior incarceration” at the “Dorchester County Detention Center identifying Mr. . . . Thomas” and his “name and image,” and “letters” mailed to the residence and addressed to “Twin.” The officers further discovered two “9-millimeter unspent cartridge[s],” a “digital scale,” “a cardboard box containing . . . empty wax folds,” “a Social Security card belonging to [Mr.] Thomas,” “numerous wax folds,” “a bottle of Inositol powder,” which “is used to cut or to mix with drugs to create more volume,” “a black bag” with “more CDS packaging inside of it,” a “body armor carrier with actual ballistic body armor plates inside,” an empty body armor carrier, and a

“9-millimeter Hi-Point” firearm. Officer Myers explained that “heroin or [f]entanyl is packaged oftentimes in wax folds with a rubber band around them to keep them contained in one package.”

Officer Myers testified that the residence contained three bedrooms, and “the closet in bedroom number three” is where the officers discovered the “jacket [containing] CDS and packaging.” Officers also discovered a “white and red jacket,” of which they had “a picture of [Mr. Thomas] wearing at some point.” From the kitchen of the residence, officers “seized a bag of white powder,” which was “next to Ziploc baggies which [are] synonymous with CDS packaging.” Officers also seized “[t]wo boxes of 4-milligram Narcan” and “a Narcan nasal spray.” One of the “9-millimeter round[s]” was discovered in a dresser “in the living room,” and inside a wallet, officers discovered “a digital image” of Mr. Thomas. The “controlled dangerous substances” were “found in the dresser drawer in the master bedroom,” and the firearm, which contained a loaded magazine, was discovered “in bedroom number three on the bed.” The body armor “carrier . . . with no plates” was discovered “[i]n the living room on the couch,” and the carrier containing plates “was in the master bedroom . . . under the mattress.”

The State also called Cambridge Police Officer Jason Drake, who testified that in June 2020, he “conduct[ed] an investigation into the distribution of controlled dangerous substances in Dorchester County,” and “pursuant to that investigation,” obtained search warrants for Mr. Thomas and the apartment. Officer Drake stated that he was “familiar with [Mr. Thomas] and his brother’s nicknames,” and that Mr. Thomas’s nickname was “Twin.”

The State also called Taylor Turner, who testified that the apartment that was searched is her address, and that the apartment was leased to her at the time of the search. Ms. Turner further stated that at the time of the search, Mr. Thomas was her boyfriend, and he “came to stay nights.” The State next called Gary Bromwell, who testified that he is “the investigator for the State’s Attorney’s Office in Dorchester County.” During Mr. Bromwell’s testimony, the State introduced into evidence a recording of an interview that he conducted of Ms. Turner. During the interview, Ms. Turner stated between May and June of 2020, she went to Baltimore “a lot” because her brother had been killed there. Ms. Turner confirmed that during that time, Mr. Thomas lived with her in the Greenwood Avenue apartment and “ha[d] access to the apartment.”

The State next called Maryland State Police forensic scientist Stephanie Laufert, who was accepted as an expert in the fields of chemistry and analysis of controlled dangerous substances. Ms. Laufert testified that she conducted the following tests and measurements of items discovered inside the apartment:

- A “tan powdery substance” inside a bag was determined to be a combination of fentanyl, cocaine, and Tramadol, and the weight of the substance was determined to be 3.770 grams.
- The contents of “69 wax bags” were determined to be fentanyl, and the “total gross weight of all 69 bags” was determined to be 15.665 grams. The bags “were separated into six bundles with a yellow rubber band, and one bundle also had a red rubber band.”
- A substance found inside a group of “ten bags [that] were printed with shine with a diamond on top of it,” and inside a group of five bags that “were not marked and were loose in the Ziploc that they came in,” was determined to be fentanyl. The total gross weight of the group of ten bags was determined to be 1.931 grams, and the total gross weight of the group of five bags was determined to be 1.177 grams.
- Six “tablets with visually similar shape, color[,] and pharmaceutical markings” were determined to contain fentanyl and Tramadol, and the “total net weight” of the tablets was determined to be 0.730 grams.

- A “compressed powdered off-white substance” inside a bag was determined to be cocaine, and the weight of the substance was determined to be 0.568 grams.
- A “white powdery substance” contained in “85 wax bags” was determined to be fentanyl, and the “total gross weight” of the bags was determined to be 21.048 grams.

The State’s final witness was Maryland State Police Sergeant Richard Keidel, who was accepted as an expert in the fields of “controlled dangerous substance evaluations, identification, investigations[,] and common practices of users and dealers of controlled dangerous substances specifically . . . in Dorchester County.” Sergeant Keidel testified that in Dorchester County, fentanyl “can go anywhere between five and \$10 per wax fold,” and a “bundle” or “bun” of “approximately ten” wax folds “would have sold anywhere between [\$]50 and \$75 depending on the street value,” “[m]ost commonly . . . about \$60.” Fentanyl can also be “purchased in a log,” which “is five of those ten wax buns,” and costs “about \$185,” because “[i]f you buy in bulk you get a discount.” Sergeant Keidel confirmed that “the powder that was in the pantry cabinet could be used for a cutting agent,” and “the Inositol could be used for a cutting agent.” The sergeant stated that “[b]ased on the packaging” of the total number of “wax bags,” the value of the bags was “probably around \$2,000 give or take.” Sergeant Keidel testified that in his “experience as a narcotics investigator” and his “expert opinion,” a “typical user” of fentanyl and heroin does not “own it in bulk quantities,” and would be “in possession, if anything, [of] a log which would be five of those buns.”

When asked whether he had “formed an opinion to a reasonable degree of certainty . . . as to whether or not the evidence seized in this case is consistent with personal consumption or distribution,” Sergeant Keidel stated that “[b]ased on [his] opinion and the

evidence collected . . . at the scene[,] the person who possesses these particular items had the intent to distribute the controlled dangerous substances there, in this case [f]entanyl.”

The sergeant elaborated:

My opinion’s based on obviously the amount of [f]entanyl that was seized and there with wax baggies. The wax baggies in and of itself also bring a fine-tune to the distribution, the digital scale, the way the packages of the bundles, the way that they’re set up to sell as individual bundles themselves or in a log set. [I]n the world of the drug trafficking trade[,] these wax bags contain a marking as much as like you would see in Coca-Cola or any marketing brand that you would see out there, Nike.

. . . . On these wax baggies there’s often a branding done by the drug trafficker to allow those persons who are consuming that particular item to know that that is a better quantity or quality of product. So when they see that, they, themselves, ingest that, and they talk amongst friends or others who may also be involved in the consumption of the CDS, and they let them know, hey, this particular product is better than that product, and therefore, if you get more customers or referred customers, your product and your sales will increase.

Sergeant Keidel confirmed that “the firearm [and] body armor play[ed a] part,”

because

[o]ften in the drug trafficking trade those persons who profit off the sale of narcotics have fear of not only law enforcement going inside and conducting a search warrant on the residence, but as well as other persons that are often involved in the drug trafficking trade. They compete for sales . . . or try to rob one another to either take care or eliminate their competition, so therefore, utilizing body armor and/or a weapon. They’re to protect themselves and their property and their profits.

Sergeant Keidel testified that it is “very common” to “see drug dealers using a girlfriend’s residence as a stash house,” because “they would utilize that evidence to distance themselves from anything that would be located inside that particular house so that way they have deniability of anything if it were to be seized.” The sergeant further

testified that it is “not very common” that “someone would leave that amount of controlled dangerous substance and a gun and body armor out and go out of town for an extended period of time,” because “[i]t’s how you make money,” and the “person involved in the drug trafficking trade knows where everything is and often have personnel within their organization that are close and used to that.”

Mr. Thomas contends that the “evidence is insufficient to sustain [his] convictions . . . because,” for numerous reasons, “the State failed to prove that [he] possessed any of the contraband found in” the apartment. We disagree. Md. Code (2002, 2021 Repl. Vol.), § 5-101(v) of the Criminal Law Article, defines “possess” as “to exercise actual or constructive dominion or control over a thing by one or more persons.” The “evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited . . . drug in the sense contemplated by the statute, *i.e.*, that the accused exercised some restraining or direct influence over it.” *State v. Gutierrez*, 446 Md. 221, 233 (2016) (internal citation and quotations omitted). In *Gutierrez*, the Court of Appeals

articulated four factors as pertinent to the issue of whether evidence is sufficient to support a finding of possession:

. . . [1] the defendant’s proximity to the drugs, [2] whether the drugs were in plain view of and/or accessible to the defendant, [3] whether there was indicia of mutual use and enjoyment of the drugs, and [4] whether the defendant has an ownership or possessory interest in the location where the police discovered the drugs.

Id. at 234 (internal citation omitted). “With respect to the concept of ‘mutual use and enjoyment,’ not only is actual use contemplated but also whether individuals participated

in drug distribution.” *Id.* at 237 (citing *Cook v. State*, 84 Md. App. 122, 134-35 (1990) (mutual use and enjoyment could be inferred when evidence indicated that “the house was being used as a base for a drug operation in which the appellants played a role”)).

Here, Ms. Taylor’s testimony that Mr. Thomas was her boyfriend and “came to stay nights” at the time of the search, her statement to Mr. Bromwell that Mr. Thomas lived with her in, and had access to, the apartment at the time of the search, and the officers’ discovery of Mr. Thomas’s Social Security card, documentation related to his prior incarceration, letters addressed to him by his nickname, a jacket that he had previously been seen wearing, and his digital image indicated that Mr. Thomas had a possessory interest in the apartment. Also, all of the contraband discovered by the officers was either in plain view or easily accessible to the occupants of the apartment. Finally, Sergeant Keidel presented considerable evidence that the apartment was being used as a base for drug distribution. This evidence supports a rational inference that Mr. Thomas did in fact exercise some dominion or control over the contraband discovered in the apartment by exercising some restraining or direct influence over it, and hence, the evidence is sufficient to sustain the convictions.

**JUDGMENTS OF THE CIRCUIT COURT
FOR DORCHESTER COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**