

Circuit Court for Anne Arundel County  
Case No. C-02-CR-19-000506

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2064

September Term, 2019

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JOSHUA BOYD

v.

STATE OF MARYLAND

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Nazarian,  
Arthur,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 4, 2021

\*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 Anne Arundel County of possession of cocaine with intent to distribute, possession of cocaine, possession of more than ten grams of marijuana, and possession of drug paraphernalia, Joshua Boyd, appellant, presents for our review a single question: 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 Anne Arundel County Police Detective Edward Schwartz, who testified that in February 2019, he obtained a warrant to search Mr. Boyd and a second level apartment at 904 1<sup>st</sup> Street in Baltimore, Anne Arundel County. On February 14, 2019, Detective Schwartz, accompanied by other officers, observed Mr. Boyd exit the front door of the address, enter a vehicle, and drive away. Detective Schwartz then instructed Anne Arundel County Police Corporal David Gentile to conduct a traffic stop of Mr. Boyd's vehicle. After the stop, the officers "met . . . on the back side of the apartment" and "made entry utilizing the key that [they] got off of Mr. Boyd's car keys." On "the ground next to the entrance of the bedroom," Detective Schwartz discovered a "piece of paper" that the detective believed to be "a ledger." In the bedroom, Detective Schwartz discovered, on top of an entertainment center, \$90 in currency, "little white bags," and a digital scale, across which was "a white powdery residue." Elsewhere in the bedroom, Detective Schwartz discovered "plastic baggies," a "glass smoking device with burnt marijuana inside," and a safe. When the officers "attempt[ed] to get the combination for the safe from" Mr. Boyd, he stated: "[T]hat's not my safe, I don't know who[se] safe that is." The officers "force[d] the safe open" and discovered "a Maryland provisional driver's license" in the name of "Joshua Albert Boyd." The officers also discovered three "roll[s]"

of money totaling \$1,164.00, “plastic bags of suspected crack cocaine,” and “three bags of suspected marijuana.” On top of the safe, the officers discovered a folder containing a piece of mail from M&T Bank and addressed to Mr. Boyd at the 1<sup>st</sup> Street address.

The State also called Corporal Gentile, who testified that when Mr. Boyd “got in [his] car and pulled off,” the corporal “pulled up behind him” and “activated [his] emergency equipment.” When Corporal Gentile approached Mr. Boyd and stated that the officers “had a search warrant for his person and his residence,” Mr. Boyd “started saying that he was fucked in various different ways.” The corporal then “placed [Mr. Boyd] in custody” and searched him, discovering “a small bag of a greenish-brown plantlike material in his front left pocket” and “a cell phone in his front sweatshirt pocket.”

The State also called Anne Arundel County Crime Lab forensic chemist Angela Ellis, who was accepted as an expert in the field of forensic chemistry. Ms. Ellis testified that she tested the “greenish-brown plantlike material” discovered in Mr. Boyd’s pocket, determined it to be marijuana, and further determined the weight of the marijuana and its packaging to be 34.07 grams. Ms. Ellis also tested the contents of one of the “little white bags” and determined it to be cocaine. Ms. Ellis also tested the “suspected crack cocaine” discovered inside the safe, determined it to be cocaine, and further determined the weight of the cocaine and its packaging to be 42.11 grams. Finally, Ms. Ellis tested and weighed the “suspected marijuana” discovered inside the safe and determined it to be 45.06 grams of marijuana.

The State’s final witness was Anne Arundel County Police Detective John Beeler, who was accepted as an expert in the fields of “controlled dangerous substances,

specifically odor, appearance, packaging, methods of street-level sales, street values of controlled dangerous substances, and the significance of related paraphernalia [and] bookkeeping methods.” Detective Beeler testified that, in his opinion, “the crack cocaine and the marijuana” recovered in this case are consistent with “possession with intent to distribute that amount.” The detective testified that “generally, [users of crack cocaine are] not going to have more than a couple rocks in their hand because that’s what they want to use,” and users of marijuana “are going to keep it all together” in a single bag. Detective Beeler further testified that a scale is used “to break [cocaine] down into the amounts that you are going to sell,” and “basically a gram of cocaine [is broken] down into tenths of a gram.” The detective estimated that the “little white bags” of cocaine were worth approximately \$100, and “the larger amount of crack cocaine that was recovered” was worth \$669 minus “a discount” for purchasing that amount. Detective Beeler testified that the plastic bags that were recovered were “significant” because they are used as packaging for crack cocaine. The detective further testified that the marijuana reflected “intent to distribute” because “it generally comes in one package of material,” and “[t]o see these individual bags is usually indicative of sales.” Detective Beeler stated that the “marijuana pipe” did not “change [his] opinion as to . . . intent,” because “it’s not surprising that [Mr. Boyd] very well may use the marijuana as well as distribute it.” The detective further stated that the “cash recovered in this case” was “significant” because “individuals involved in the distribution of marijuana or any kind of controlled dangerous substance do not use banks . . . because it’s easily tracked.” Detective Beeler testified that the “piece of paper recovered in this case” was “resembling of tally sheets,” which “is a way for dealers

to track what they're selling, how much they're selling, . . . the amounts that they need to break it down into, especially if there's . . . a large number of customers." Finally, the detective stated that text messages obtained from Mr. Boyd's cell phone contained communications and "coded language" that is "common [to] those individuals that are involved with the distribution of drugs."

Following the close of the State's evidence, Mr. Boyd called Sarah Hatfield, who testified that she lives at the 1<sup>st</sup> Street residence, and at the time of the officers' search, Mr. Boyd also lived at the residence and "slept in the main bedroom." Ms. Hatfield stated that she owned the safe in the bedroom of the residence, and that the safe contained approximately \$1,100 in cash because "[t]hat was [her] tax return." Ms. Hatfield stated that she did not give the combination for the safe to Mr. Boyd because it is "[h]ard to trust anybody." Ms. Hatfield further stated that the writing on the "piece of paper" discovered by the officers was hers, because she "was getting ready to move" and was "adding up different bills [to] determine . . . what exactly [she] would be able to afford." Ms. Hatfield also claimed ownership of the marijuana and crack cocaine found inside the apartment, because "around tax time [she would] purchase it and have fun a little bit." Ms. Hatfield further stated that she would keep Mr. Boyd's ID in the safe, because "guys usually don't really keep track of that kind of stuff." During cross-examination, Ms. Hatfield testified that she had known Mr. Boyd for two to three years, and that they were "friends, benefits." Ms. Hatfield further stated that at the time of the search, Mr. Boyd "had been living in [her] house day to day, night to night keeping his stuff there for" approximately three to four months.

Mr. Boyd contends that the “evidence was insufficient to sustain [the] convictions because,” for numerous reasons, “the State failed to establish . . . possession.” 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). The Court of Appeals has

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, Mr. Boyd was observed exiting the building where the drugs were discovered, and from Mr. Boyd’s possession of a key to the apartment where the drugs were discovered, the jury could reasonably infer that he departed from that apartment. The cocaine

discovered on the entertainment center and paraphernalia discovered in the bedroom were accessible to Mr. Boyd, and from the presence in the safe of a driver's license in Mr. Boyd's name, the jury could reasonably infer that Mr. Boyd knew the combination to the safe and had access to the drugs within. Detective Beeler presented considerable evidence that the apartment was being used as a base for drug distribution, and Mr. Boyd's statement to Corporal Gentile indicated use and enjoyment of the drugs and paraphernalia and consciousness of guilt of criminal offenses. Finally, Ms. Hatfield's testimony that Mr. Boyd had lived in the apartment "day to day, night to night keeping his stuff there for" approximately three to four months, and the presence in the bedroom of mail listing the apartment as Mr. Boyd's address, indicated that Mr. Boyd had a possessory interest in the apartment. This evidence supports a rational inference that Mr. Boyd did in fact exercise some dominion or control over the drugs and paraphernalia discovered in the apartment by exercising some restraining or direct influence over them, and hence, the evidence is sufficient to sustain the convictions.

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