

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
NAFIS SCOTT	:	
	:	
Appellant	:	No. 2400 EDA 2024

Appeal from the Judgment of Sentence Entered December 16, 2022
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0004193-2022

BEFORE: STABILE, J., MURRAY, J., and SULLIVAN, J.

MEMORANDUM BY SULLIVAN, J.:

FILED JULY 18, 2025

Nafis Scott ("Scott") appeals from his judgment of sentence following his conviction of two counts of persons not to possess firearms.¹ We affirm.

Pennsylvania State Parole Agent Humphrey Jones ("Agent Jones") supervised Scott's state parole for convictions of persons not to possess firearms and related offenses, and regularly visited Scott's home. In February 2022, for reasons not clear from the record, Agent Jones received a text from Scott that he was selling ounces of drugs and then found an Instagram post of Scott sitting at his kitchen counter with a gun and an extended magazine of ammunition. Agent Jones obtained a warrant to search Scott's home, resulting in the discovery of a loaded Smith and Wesson SD40 and a loaded Glock 9mm above a cabinet in the kitchen of the house Scott shared with Pennsylvania Correction Officer Cinnamon Woods ("Officer Woods").

¹ **See** 18 Pa.C.S.A. § 6105.

On appeal, Scott raises the following issue for our review:

1. Whether the evidence put forth at trial was sufficient to demonstrate that [Scott] possessed a firearm and thus sustain his conviction for 18 Pa.C.S.A. § 6105[?]

See Scott's Brief at 5.

This Court reviews the sufficiency of the evidence under the following standard:

A claim challenging the sufficiency of the evidence is a question of law. Evidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt. . . .

Commonwealth v. Stahl, 175 A.3d 301, 303-04 (Pa. Super. 2017).

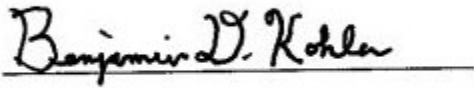
A person commits the offense of persons not to possess firearms where he possesses a firearm having been convicted of a disqualifying offense, including persons not to possess firearms. **See** 18 Pa.C.S.A. § 6105(a)(1), (b).

Instantly, the trial court has written a thorough and well-reasoned opinion explaining its denial of relief. **See** Trial Court Opinion, 10/15/24, at 4-10. The trial court: (1) found sufficient evidence proved Scott's residence in the house; (2) noted Scott had a prior disqualifying conviction; (3) reviewed the law governing constructive possession and joint constructive possession; and (4) concluded the evidence amply established Scott's constructive possession of a firearm.

Because the record supports the trial court's factual findings and legal conclusions, we adopt its October 15, 2024, opinion and affirm the judgment of sentence.

Judgment affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 7/18/2025

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	CP-51-CR-0004193-2022
	:	
	:	
VS.	:	
	:	
	:	
NAFIS SCOTT	:	2400 EDA 2024

OPINION

WOELPPER, DONNA, J.

Nafis Scott (“Defendant”) has appealed the Court’s judgment of conviction and sentence. The Court submits the following Opinion in accordance with the requirements of Pa.R.A.P. 1925, and for the reasons set forth herein, recommends that its judgment be affirmed.

I. PROCEDURAL HISTORY

On August 14, 2022, following a bench trial before the Court, Defendant was convicted of two counts of persons not to possess firearms,¹ and one count each of knowing and intentional possession of a controlled substance (“K & I”)² and possession of drug paraphernalia.³

Sentencing was deferred pending a presentence investigation (“PSI”). On December 16, 2022, upon consideration of the PSI report and all relevant facts and circumstances of this case, the Court sentenced Defendant to an aggregate term of two to five years of incarceration.

Defendant did not file a direct appeal. On March 27, 2023, he filed a PCRA petition seeking reinstatement of his direct appeal rights. PCRA counsel was appointed, and on

¹ 18 Pa.C.S. § 6105.

² 35 P.S. § 780-113(a)(16).

³ 35 P.S. § 780-113(a)(32).

January 18, 2024, he filed an amended petition. On August 20, 2024, following an evidentiary hearing, the Court entered an order reinstating Defendant's appellate rights nunc pro tunc.

On September 8, 2024, Defendant filed a notice of appeal to the Superior Court. On September 11, 2024, the Court ordered Defendant to file a Pa.R.A.P. 1925(b) statement of matters complained of on appeal. Defendant timely filed his Rule 1925(b) statement on October 1, 2024.

II. FACTUAL HISTORY

At trial, the Commonwealth first presented the testimony of Pennsylvania State Parole Agent Humphrey Jones. Agent Jones testified that he has been a state parole agent for the past four years, prior to which he served as a probation officer in Philadelphia County for three years. In January 2022, Defendant was assigned to Agent Jones' state parole supervision. Agent Jones testified that as part of his supervision, he regularly visited Defendant at his residence located at 3151 Agate Street in Philadelphia. Agent Jones visited Defendant at his residence at least two to three times each month. On February 8, 2022, Agent Jones received a text message from Defendant stating, "Today all OZ [ounces] going for \$100 get wit me all fire," followed by several fire emojis. Defendant's text message was submitted into evidence as Exhibit C-1. (See N.T. 10/07/22 at 9-12; Exhibit C-1).

Agent Jones testified that, upon receiving the above text message, he submitted it to his supervisors with the intention of obtaining approval to conduct a search of Defendant's residence. In the meantime, Agent Jones reviewed one of Defendant's Instagram posts, depicting a male (ostensibly Defendant) sitting on the kitchen counter at 3151 Agate Street.⁴ In

⁴ Agent Jones knew that it was Defendant's kitchen based on visiting Defendant's home "many times." (N.T. 10/07/22 at 17).

this Instagram post, a firearm with an extended magazine can be seen lying on the counter within arm's length of the male. Defendant's Instagram post was submitted into evidence as Exhibit C-2. (See N.T. 10/07/22 at 14-22; Exhibit C-2).

Agent Jones testified that based on the above text message and Instagram post, a warrant to search Defendant's residence was issued. On March 29, 2022, Agent Jones, along with several parole agents and police officers, executed the search of Defendant's residence.⁵ There, they recovered numerous items of contraband, including handguns, narcotics, and drug paraphernalia. More specifically:

We did recover one black and silver Smith and Wesson SD40, semi-automatic pistol with 11 live rounds that referenced Serial Number FYU9378.

We did also recover one black Glock 26 9mm with 15 live rounds referenced by Serial Number BMBV980. Both of these firearms were recovered from the top of the cabinet inside of the kitchen.

We also recovered packaging material which included two digital scales, plastic Ziploc bags with gold foil backing containing a green leafy substance consistent with marijuana residue.

We also recovered 49 yellow Suboxone strips; 56 blue and white Suboxone strips. Those were recovered from primarily the kitchen and the front second story bedroom.

(N.T. 10/07/22 at 22-25).

⁵ Agent Jones testified that Defendant was being detained at the State Parole Office while the warrant was being executed. He also noted that, prior to entry, Defendant's paramour and home provider, Cinnamon Woods, was called to the scene, and provided keys to allow the agents to gain entry without breaking down the front and rear doors. As to occupants of the home, Agent Jones testified that, on each visit, he asked both Defendant and Ms. Woods, "[W]ho resides in the home[?]" and on each occasion, "[T]hey [stated] it was just the two of them and their children." Further, Agent Jones noted, "[A]t no point in time in visiting the home was anyone else living in the home. . . . There [were] no sleeping arrangements for anyone else. There [were] only two bedrooms. One bedroom was occupied by [Defendant's] children. The other bedroom was occupied by [Defendant] and Ms. Woods." (N.T. 10/07/22 at 22-23, 33-34).

On cross-examination, Agent Jones admitted that a portion of the Suboxone was contained inside a box with a prescription label on it, and the name on the label was not Defendant's. Additionally, Agent Jones was presented with a "Pennsylvania Parole Board Notice of Board Decision," which stated that there was no evidence presented at Defendant's parole hearing regarding Defendant residing at the Agate Street home. (See N.T. 10/07/22 at 35-37).

On redirect examination, Agent Jones testified that: (a) 3151 Agate Street was the address that Defendant provided to the Parole Office as his residence; (b) 3151 Agate Street is the address that Agent Jones obtained from the state parole "Home Provider Agreement Letter"; (c) 3151 Agate Street is the address where Defendant's GPS monitor was assigned to; (d) 3151 Agate Street was "the only residence" where Agent Jones visited Defendant; (e) at all times during his supervision, Defendant held out 3151 Agate Street as his residence; and (f) "Not once did I (Agent Jones) receive a GPS violation indicating that [Defendant] had left that residence." (N.T. 10/07/22 at 37-38).

The Commonwealth next called Philadelphia Police Officer John Ellis to the stand. Officer Ellis testified that he has been a police officer for 18 years, the last 10 of which he spent in narcotics, including his current assignment to a co-operative task force with the DEA. Officer Ellis testified that he was the affiant on the search warrant at issue. On March 29, 2022, he and several other officers/ agents, executed the warrant at 3151 Agate Street. There, they recovered two handguns, 49 yellow and 56 blue and white Suboxone strips, two digital scales and Ziploc packets from the kitchen, and \$5,733 cash from the second-floor front bedroom. Additionally, Officer Ellis recovered one PECO bill, a letter addressed to Ms. Woods, and two appointment reminders in Defendant's name. (N.T. 10/07/22 at 43-48).

The Commonwealth then presented Officer Ellis with photographs, which he positively identified as depicting the contraband recovered at the home (Exhibits C-3 & C-4). The Commonwealth also introduced via stipulation: (a) a property receipt for the handguns recovered (Exhibit C-6); (b) a ballistics report establishing that both firearms were test-fired and proven operable (Exhibit C-7); (c) a property receipt for the narcotics recovered (Exhibit C-8); and (d) a chemical analysis report establishing that the narcotics tested positive (Exhibit C-10). Finally, prior to resting, the Commonwealth introduced a stipulation establishing that Defendant had a prior conviction which prohibited him from possessing a firearm. (See N.T. 10/07/22 at 50-54; Exhibits C-3, C-4, C-6, C-7, C-8 & C-10).

Defendant did not present any evidence at trial. Following argument by the parties, the Court held the matter under advisement. On October 14, 2022, upon careful review of the record and pertinent law, the Court found Defendant guilty of all counts. (See N.T. 10/14/22 at 3-4). Following a presentence investigation, the Court imposed sentence as previously set forth. This appeal followed.

III. ISSUE ON APPEAL

Defendant raises the following issues in his Rule 1925(b) Statement:

1. Whether the evidence put forth at trial was sufficient to demonstrate that defendant possessed [the[firearm]s] and thus sustain his conviction[s under] 18 Pa.C.S.A. § 6105.

(Defendant's Rule 1925(b) Statement, ¶ 1).

IV. DISCUSSION

Defendant claims that the evidence was insufficient to sustain his convictions for persons not to possess firearms. The record refutes this claim.

a. Sufficiency Standard

In evaluating a challenge to the sufficiency of the evidence, a reviewing court must view the evidence in the light most favorable to the Commonwealth as verdict winner. It accepts as true all the evidence, direct and circumstantial, and all reasonable inferences arising therefrom upon which the finder of fact could properly have based its verdict, in determining whether the evidence and inferences are sufficient to support the challenged conviction. Commonwealth v. Carroll, 507 A.2d 819, 820 (Pa. 1986); Commonwealth v. Griscavage, 517 A.2d 1256, 1259 (Pa. 1986); Commonwealth v. Hopkins, 747 A.2d 910, 913 (Pa. Super. 2000).

“[T]he facts and circumstances established by the Commonwealth need not preclude every possibility of innocence.” Commonwealth v. Jones, 874 A.2d 108, 120 (Pa. Super. 2005); see Commonwealth v. Rippy, 732 A.2d 1216, 1218-1219 (Pa. Super. 1999) (while conviction must be based on more than mere speculation, “the Commonwealth need not establish guilt to a mathematical certainty”). “Any doubts regarding a defendant’s guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances.” Commonwealth v. Hutchinson, 947 A.2d 800, 806 (Pa. Super. 2008); see also Commonwealth v. Sneddon, 738 A.2d 1026, 1027 (Pa. Super. 1999).

“The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence.” Commonwealth v. Jones, 874 A.2d at 120. Thus, the decision of the trier of fact will not be disturbed where there is support for the verdict in the record. Commonwealth v. Bachert, 453 A.2d 931, 935 (Pa. 1982). When assessing the sufficiency of the evidence, a reviewing court “may not weigh the evidence

and substitute [its] judgment for that of the fact-finder.” Commonwealth v. Vetrini, 734 A.2d 404, 407 (Pa. Super. 1999).

“Moreover, in applying the above test, the entire record must be evaluated and all evidence actually received must be considered.” Commonwealth v. Hutchinson, 947 A.2d at 806. “Finally, the trier of fact while passing upon the credibility of witnesses and the weight of the evidence produced, is free to believe all, part or none of the evidence.” Id.

b. Persons Not to Possess Firearms

In order to support a conviction for persons not to possess firearms, the Commonwealth must prove that “the defendant possessed a firearm and that he was convicted of an enumerated offense that prohibits him from possessing, using, controlling, or transferring a firearm.” Commonwealth v. Thomas, 988 A.2d 669, 670 (Pa. Super. 2009) (citing 18 Pa.C.S. § 6105).

c. Actual/ Constructive Possession

Possession of contraband is proven by evidence of actual possession where the contraband is found on the defendant’s person, or by evidence that the defendant constructively possessed it. Commonwealth v. Valette, 613 A.2d 548, 550 (Pa. 1992); Commonwealth v. Macolino, 469 A.2d 132, 134 (Pa. 1983); Commonwealth v. Clark, 746 A.2d 1128, 1136 (Pa. Super. 2000) (en banc); Commonwealth v. Davis, 743 A.2d 946, 953 (Pa. Super. 1999).

“Constructive possession has been defined as the ability to exercise a conscious dominion over the illegal substance: the power to control the contraband and the intent to exercise that control.” Commonwealth v. Macolino, 469 A.2d at 134. See also Commonwealth v. Valette, 613 A.2d at 550; Commonwealth v. Mudrick, 507 A.2d 1212, 1213 (Pa. 1986). “Constructive possession is an inference arising from a set of facts that possession of the contraband was more likely than not.” Id.

“As with any other element of a crime, constructive possession may be proven by circumstantial evidence. The requisite knowledge and intent may be inferred from examination of the totality of the circumstances.” Commonwealth v. Haskins, 677 A.2d 328, 330 (Pa. Super. 1996) (citations omitted); see also Commonwealth v. Valette, 613 A.2d at 550; Commonwealth v. Austin, 631 A.2d 625, 629 (Pa. Super. 1993). Although not alone dispositive, a defendant’s presence at the location where contraband is found is a clear factor establishing knowledge that the contraband is present, as well as the exercise of dominion and control over such contraband. Commonwealth v. Aviles, 615 A.2d 398, 403 (Pa. Super. 1992) (en banc); see also Commonwealth v. Parsons, 570 A.2d 1328, 1335 (Pa. Super. 1990); Commonwealth v. Harris, 397 A.2d 424, 429 (Pa. Super. 1979); Commonwealth v. Carter, 326 A.2d 480, 482 (Pa. Super. 1974).

Additionally, even though other persons may have access to the contraband, constructive possession may be established where the Commonwealth’s evidence connects the defendant to the location where the contraband was kept. Commonwealth v. Rippey, 732 A.2d 1216, 1220 (Pa. Super. 1999); Commonwealth v. Davis, 480 A.2d 1035, 1045 (Pa. Super. 1984) (knowledge of the location of the contraband and intent to exercise control over such may be inferred from access to it and the other surrounding circumstances, even though others have equal access thereto) (citing Commonwealth v. Banahasky, 378 A.2d 1257 (Pa. Super. 1977)).

Thus, it is well settled that “[p]ossession can be found by proving actual possession, constructive possession, or *joint* constructive possession.” Commonwealth v. Parrish, 191 A.3d 31, 36 (Pa. Super. 2018) (emphasis added) (citation omitted); see also Commonwealth v. Valette, 613 A.2d at 550 (“Constructive possession may be found in one or more actors where the item in issue is in an area of joint control and equal access.”) (citation omitted);

Commonwealth v. Mudrick, 507 A.2d at 1214 (where two actors have joint control and equal access to the area where contraband is found, the fact finder may find constructive possession by either or both of them); Commonwealth v. Macolino, 469 A.2d at 135 (“[C]onstructive possession can be found in one defendant when both the husband and wife have equal access to an area where the illegal substance or contraband is found.”).

d. Application

Here, the direct and circumstantial evidence, along with all reasonable inferences viewed in the light most favorable to the Commonwealth, demonstrated that Defendant constructively possessed the firearms seized in this case. The evidence established that Defendant lived at the 3151 Agate Street residence -- in fact, he never left the home at any point pertinent to this matter per GPS monitoring -- and he clearly had “joint control and equal access” to the kitchen area where the firearms were recovered.⁶ This evidence alone supported the finding of constructive possession. See Commonwealth v. Mudrick, *supra*; Commonwealth v. Macolino, *supra*.

Moreover, in this case there was an even greater evidentiary link to the contraband. Indeed, Defendant himself launched the investigation by (presumably) inadvertently texting his parole officer about his drug-dealing “specials.” Agent Jones testified that he forwarded the text message to his supervisors and was planning to obtain a search warrant, but before he could do so, Defendant posted a photo to his Instagram account displaying a firearm in plain view on his kitchen counter. Agent Jones testified that he knew for certain, based on his multiple visits to Defendant’s home, that the photo was of Defendant’s kitchen at 3151 Agate Street. Thus, Defendant not only had equal access to the firearms, the evidence linked him to the contraband in the same area of the home where the firearms were recovered. In sum, considering the totality

⁶ Defendant conceded that he was statutorily prohibited from possessing a firearm.

of the circumstances, the evidence amply supported Defendant's convictions for persons not to possess firearms. As such, Defendant's sufficiency challenge fails.⁷

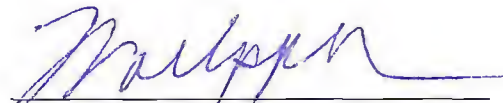
V. CONCLUSION

Based on the reasons set forth in the foregoing Opinion, the Court's judgment of sentence should be affirmed.

BY THE COURT:

DATE:

10/15/24



DONNA WOELPPER, J.

⁷ At trial, Defendant argued that the evidence was insufficient to demonstrate constructive possession because the firearms were recovered from the kitchen, as opposed to the "more private" second floor bedroom that he shared with Ms. Woods. However, the Pennsylvania Supreme Court rejected this very argument in Mudrick, where the defendant was deemed in constructive possession of contraband found in the common living space of the home:

The box of marijuana found on the living room coffee table can be analyzed in the same manner. Though one's bedroom is generally considered to be a more private area than the living room or kitchen, we do not find that distinction persuasive here. There was no evidence that anyone other than appellee and Ms. Dietz occupied the premises or that anyone else was present when the officers arrived. The control and access enjoyed by each actor in the bedroom, therefore, seems undiminished in the living room. The jury could properly find that Ms. Dietz and appellee not only shared the bedroom but the whole residence. Analyzing all the circumstances, it could infer appellee's constructive possession of the marijuana which was openly accessible to him on the living room coffee table.

Commonwealth v. Mudrick, 507 A.2d at 1214. The same holds true here; the evidence established that Defendant and Ms. Woods were the only adults residing in the home and nobody else was present when the agents executed the search. As Defendant enjoyed equal access to the kitchen, this Court, sitting as fact finder, was free to infer that Defendant constructively possessed the firearms recovered therefrom. Id.

**IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CRIMINAL SECTION**

COMMONWEALTH OF
PENNSYLVANIA

vs.

NAFIS SCOTT

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CP-51-CR-0004193-2022

PROOF OF SERVICE

I hereby certify that I am this 15th day of October, 2024, serving the foregoing Opinion on the persons indicated below:

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Donna M. Woelpper