

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Keith D. Jackson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

May 13, 2021

Court of Appeals Case No.
20A-CR-2196

Appeal from the
Elkhart Circuit Court

The Honorable
Michael A. Christofeno, Judge

Trial Court Cause No.
20C01-1808-F4-58

Vaidik, Judge.

Case Summary

- [1] Keith D. Jackson was driving a borrowed car when he was pulled over by a police officer. When asked to provide identification, Jackson provided the officer with a driver's license that was not his. Officers searched the car and found a handgun. Jackson was charged with, and found guilty of, false informing, driving while suspended, and unlawful possession of a firearm by a serious violent felon. He now appeals, arguing the discovery of the handgun was the product of an unreasonable search and seizure, the evidence is insufficient to support his possession conviction, and an erroneous jury instruction on the possession charge constitutes fundamental error. We agree the jury instruction, which did not provide the requisite mens rea, was fundamental error and reverse as to that conviction.

Facts and Procedural History

- [2] On August 17, 2018, Detective Casey Claeys of the Elkhart Police Department noticed a red 2006 Dodge Stratus, being driven by Jackson, fail to signal 200 feet before a turn. Detective Claeys pulled behind Jackson and initiated a traffic stop. Jackson continued driving, passing several parking lots and making at least one turn before stopping the car. When Detective Claeys approached the car, he saw Jackson was the sole occupant. Detective Claeys also smelled raw marijuana. He requested Jackson's driver's license and registration. Jackson provided a driver's license with the name "Aaron Horton" but did not provide the registration. Tr. Vol. II p. 131. Detective Claeys noticed Jackson was not

the person on the license he provided. He took Jackson into “custody based on the false informing and the odor of marijuana coming from the car[.]” *Id.* at 132.

[3] Detective Claeys then radioed for backup. While waiting, he ran a check on the car’s temporary license plate, which showed it was registered to a green 2005 BMW and had expired. The car also was not registered to Jackson or “Aaron Horton.” Detective Claeys determined the car would need to be impounded based “on the false and fictitious license plate on the vehicle.” *Id.* at 134.

Corporal James Wrathell arrived with a K-9 dog, which performed a sniff test of the car. The dog showed interest in a few areas but did not alert. The officers then searched the car, finding plastic baggies, a microwave, condoms, and hair clips in the passenger compartment of the car. In the trunk, they found a black duffle bag containing a handgun rolled in a pair of men’s jeans and ammunition. The bag also contained an Indiana identification card for “Keith Jackson.” *Id.* at 138. Several pieces of mail with Jackson’s name were also found in the trunk. Detective Claeys ran a driver’s license check on “Keith Jackson,” which provided a picture allowing officers to identify him as the driver and showed his license was suspended.

[4] On August 21, the State charged Jackson with Class A misdemeanor false informing, Class A misdemeanor driving while suspended, and Level 4 felony unlawful possession of a firearm by a serious violent felon based on Jackson’s 2005 conviction for robbery. Jackson, acting pro se, moved to suppress the evidence obtained during the search of the car, arguing it violated his rights

under the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Indiana Constitution. A hearing was held on the motion in November 2019. Detective Claeys testified that besides the issues with the car's license plate and lack of registration, it was parked "partially in the road" where it "could obscure traffic." *Id.* at 145. He further stated that after deciding to impound the car, he conducted an inventory search "based on [the department's] towing procedure at that time[.]" *Id.* at 139. The State introduced into evidence a document titled "Inventory of Impounded Vehicles." Ex. 1. Detective Claeys testified this was the "inventory impound vehicle sheet that tell[s] us when . . . the inventory of the vehicle needs to be done." Tr. Vol. II p. 140. He further testified this was "the policy that [he] was operating under" at the time of the search. *Id.* He also described how he conducted the search—that he and Corporal Wrathell searched the entire car, including the trunk and containers within it, and documented any important or valuable items on the inventory form. *See* Ex. 2. In February 2020, the trial court denied Jackson's motion to suppress, finding the warrantless search was valid under the search-incident-to-arrest and inventory-search exceptions.

- [5] The first phase of the bifurcated trial began on October 5. The jury was asked to decide the two misdemeanor charges and whether Jackson committed Class A misdemeanor carrying a handgun without a license. Even though Jackson was not charged with that offense, and although the record is not clear on why this instruction was given, presumably it was used as a means to have the jury decide the possession element of the serious-violent-felon charge in the first

phase without being informed of Jackson’s criminal history.¹ See *Russell v. State*, 997 N.E.2d 351, 352 (Ind. 2013); see also *Williams v. State*, 834 N.E.2d 225, 228 (Ind. Ct. App. 2005) (upholding instruction in first phase of a bifurcated trial for unlawful possession of a firearm by a serious violent felon that instructed the jury the defendant was charged with the non-existent offense of “unlawful possession of a firearm”).

[6] Jackson, now represented by counsel, focused his defense on whether he “knowingly possessed and carried a handgun.” Tr. Vol. IV p. 23. At closing, defense counsel argued Jackson “didn’t even know about this gun” and that the State provided insufficient evidence to tie him to it. *Id.* at 24. After all the evidence was presented, the court asked both parties if they reviewed the final instructions. Both the State and defense counsel indicated they had and there were no objections. Instruction 2 provided, in part,

ISSUES FOR TRIAL

In this case, the State of Indiana has charged the Defendant, Keith D. Jackson with:

COUNT I - CARRYING A HANDGUN WITHOUT A LICENSE, A CLASS A MISDEMEANOR:

The charge reads as follows:

¹ Jackson does not challenge this procedure on appeal.

The undersigned affiant swears that on or about the 17th day of August, 2018, at the County of Elkhart, State of Indiana, one KEITH D. JACKSON, **knowingly** possessed and carried a handgun, in a vehicle or about his person away from his dwelling, property or fixed place of business without a license in his possession; all of which is contrary to the form of I.C. §35-47-2-1; contrary to the form of the statute in such cases made and provided; and, against the peace and dignity of the State of Indiana.

Appellant's App. Vol. II p. 216 (emphasis added). Instruction 3, provided in part,

The crime of Carrying a Handgun Without a License is defined by law as follows: a person who carries a handgun in any vehicle or on or about his person, except in his dwelling, on his property, or fixed place of business, without a license issued under this chapter being in his possession, commits carrying a handgun without a license, a Class A Misdemeanor. Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt: 1. The Defendant; 2. carried a handgun in a vehicle or on or about his person; 3. away from Defendant's dwelling, property, or fixed place of business.

Id. at 217. Notably, Instruction 3 does not include the element of "knowingly." Another instruction defining "knowingly" was also included. *Id.* at 221.

[7] During deliberations, the jury sent a question to the court, asking "Are we to factor in 'knowingly' when considering the handgun charge? The charge has 'knowingly,' but the elements on the law do not state it." Tr. Vol. IV p. 37. Because the State and defense counsel could not agree on how to answer the

question, the court did not provide the jury an answer. The jury found Jackson guilty of the two misdemeanors and carrying a handgun without a license.

[8] The court then moved to the second phase of the trial on the charge of unlawful possession of a firearm by a serious violent felon. During opening statements, the State told the jury,

So the first part [of the trial] is whether or not the defendant was in possession of that firearm. And the second part, which is what we're doing today, is whether or not the defendant has that prior conviction for robbery. So you've already done most of the heavy lifting, which is the first part. You've already decided that the defendant was in possession of that gun, so we're not here to rehash that; you've made that decision. We're moving on to what we call Phase II. So now the State needs to prove beyond a reasonable doubt that the defendant has that prior conviction for robbery.

Id. at 53. The State introduced court-certified documents showing Jackson pled guilty in 2005 to robbery with a deadly weapon. Jackson then testified he did not dispute he had a robbery conviction but the car belonged to his brother and he didn't know the gun was there. The State, in its closing, stated "today's trial is not exactly the same as yesterday" and noted the jury had "already convicted [Jackson] of that handgun." *Id.* at 107, 109. In his closing, Jackson again emphasized he "didn't know that there was a gun in the vehicle" and therefore the State failed to meet its burden of proving he is guilty of knowingly possessing a firearm. *Id.* at 111. Neither party objected to the jury instructions in

phase two. The instruction regarding possession of a firearm by a serious violent felon provided in part,

The crime of Possession of a Firearm in Violation of I.C. 35-47-4-5 is defined by law as follows: A person who knowingly or intentionally possesses a firearm after having been convicted and sentenced for an offense enumerated under I.C. 35-47-4-5 commits possession of a firearm in violation of I.C. 35-47-4-5, a Level 4 Felony. Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt: 1. The Defendant; 2. **knowingly**; 3. possessed a firearm; 4. after the Defendant had been convicted of Robbery, which the Court instructs you is an offense enumerated under I.C. 35-47-4-5.

Appellant's App. Vol. III p. 23 (emphasis added).

[9] The jury found Jackson guilty of unlawful possession of a firearm by a serious violent felon. The court entered judgment of conviction for unlawful possession of a firearm by a serious violent felon, driving while suspended, and false informing.

[10] Jackson now appeals.

Discussion and Decision

I. Admission of Evidence

[11] Jackson contends the handgun recovered from the car should not have been admitted into evidence because it was discovered in violation of his rights under the Fourth Amendment to the United States Constitution and Article 1, Section

11 of the Indiana Constitution. “The constitutionality of a search or seizure is a question of law, and we review it de novo.” *Kelly v. State*, 997 N.E.2d 1045, 1050 (Ind. 2013).

A. Fourth Amendment

[12] The Fourth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment, protects persons from unreasonable searches and seizures. *Taylor v. State*, 842 N.E.2d 327, 330 (Ind. 2006). The purpose of the Fourth Amendment is to protect the legitimate expectations of privacy citizens possess in their persons, homes, and belongings. *Id.* Subject to certain well-established exceptions, a warrant is required to demonstrate that a search is reasonable. *Whitley v. State*, 47 N.E.3d 640, 645 (Ind. Ct. App. 2015), *trans. denied*. The State must prove that an exception to the warrant requirement existed at the time of the search. *Id.*

[13] One such exception is a valid inventory search, which permits police to conduct a warrantless search of a lawfully impounded vehicle if the search is designed to produce an inventory of the vehicle’s contents. *Id.* The rationale for an inventory search is three-fold: (1) protection of private property in police custody; (2) protection of police against claims of lost or stolen property; and (3) protection of police from possible danger. *Taylor*, 842 N.E.2d at 330-31. The test of constitutionality in inventory cases is reasonableness. *Fair v. State*, 627 N.E.2d 427, 431 (Ind. 1993). In determining the reasonableness of an inventory search, courts look to the facts and circumstances of the case. *Id.* We consider

both the propriety of the impoundment giving rise to the search and the scope of the search itself. *Id.*

- [14] Jackson first challenges the propriety of the impoundment. Impounding a vehicle is proper when authorized by statute or performed under the community-caretaking function of the police. *Whitley*, 47 N.E.3d at 645. The State argues the impoundment here was authorized by statute, and we agree.
- [15] Indiana Code section 9-18.1-2-3(2) states a car may not be operated on the highway unless it “displays proof of registration in accordance with this article.” Proof of registration includes a license plate, a registration decal or sticker issued by the BMV, a certificate of registration, or other indication of registration issued by the BMV. Ind. Code § 9-18.1-1-5. Here, the car being driven by Jackson not only had an expired license plate, but the plate itself belonged to another vehicle. Nor could Jackson provide the car’s registration, and the car was not registered to him. As such, the impoundment was authorized by statute. *See* Ind. Code § 9-18.1-2-10(a) (a law-enforcement officer who discovers a vehicle being operated in violation of this chapter may take the vehicle into custody).
- [16] But “[e]ven if there is a lawful custodial impoundment of the vehicle, the constitutional requirement of reasonableness requires that the inventory search itself must be conducted pursuant to standard police procedures.” *Jackson v. State*, 890 N.E.2d 11, 18 (Ind. Ct. App. 2008). This is “to ensure that the inventory is not pretext ‘for a general rummaging in order to discover

incriminating evidence.” *Fair*, 627 N.E.2d at 435 (quoting *Florida v. Wells*, 495 U.S. 1, 4 (1990)). “[T]o defeat a charge of pretext the State must establish the existence of sufficient regulations and that the search at issue was conducted in conformity with them.” *Fair*, 627 N.E.2d at 435. While evidence of written inventory procedures is not required, the State must present more than conclusory testimony from officers. *Wilford v. State*, 50 N.E.3d 371, 376 (Ind. 2016).

[17] Here, Jackson argues the State failed to present sufficient evidence of the police department’s inventory-search procedure. We disagree. Detective Claeys testified he performed an inventory search because it is “department policy when you’re impounding a vehicle.” Tr. Vol. II p. 140. The State then introduced into evidence a document titled “Inventory of Impounded Vehicles,” which Detective Claeys stated was the “policy that [he was] operating under” at the time of the search and that this policy tells officers “when the inventory of the vehicle needs to be done.” Ex. 1, Tr. Vol. II p. 140. The policy provided the following:

Inventory of Impounded Vehicles

1. The Elkhart Police Department requires officers to inventory any lawfully impounded vehicle, or a vehicle removed from the street and placed into police custody. The purpose of the inventory is to ensure safekeeping of private property and to protect the Police Department from questions of what property was in a vehicle.

2. Vehicles shall be inventoried in accordance with departmental procedure that requires an inventory of the entire contents: including closed containers (provided they can be opened without breakage).

3. In order to justify the inventory of a vehicle Officers must have lawful custody of it.

4. The inventory shall be conducted according to department policy;

a. The scope of the inventory shall be limited to those parts of a vehicle likely to conceal important or valuable items;

b. Closed containers may be examined if they are likely to contain valuable property.

c. Officers must make a list of all items observed during the inventory.

5. The vehicle and its closed containers shall not be damaged.

Ex. 1.

[18] Detective Claeys's testimony about the inventory search done here conforms with this policy. As noted above, the car was being lawfully impounded, and thus Detective Claeys was required under the policy to perform an inventory search. He searched the entire car, including the trunk, a part likely to conceal important or valuable property. He also searched a bag within the trunk, which is permitted under the policy if the bag is "likely to contain valuable property"

and searching it will not cause damage. Detective Claeys also filled out a “standard impound form” describing the car and listing items in it. Tr. Vol. II p. 142; *see also* Ex. 2. This testimony and the documentation entered into evidence by the State are sufficient to show the search conformed with departmental policies and was therefore reasonable.

[19] Finally, Jackson argues the inventory search was pretextual because, as evidenced by the K-9 sniff, Detective Claeys was looking for contraband within the car. However, as noted above, the impoundment of the car was proper, and the search was reasonable. As such, “we will not fault it because a searching officer wanted or expected to find evidence of a crime as he searched.” *Sams v. State*, 71 N.E.3d 372, 377 (Ind. Ct. App. 2017).

[20] Because the handgun was found during a proper impoundment and inventory of a car, its admission into evidence did not violate Jackson’s Fourth Amendment rights.²

B. Article 1, Section 11

[21] Jackson also contends the inventory search was unreasonable under Article 1, Section 11 of the Indiana Constitution, which provides, “The right of the people to be secure in their persons, houses, papers, and effects, against

² Because we have found the inventory-search exception to the warrant requirement applies here, we need not address Jackson’s arguments regarding the applicability of the search-incident-to-arrest exception or the automobile exception.

unreasonable search or seizure, shall not be violated[.]” Although this language is virtually identical to its Fourth Amendment counterpart, our Supreme Court has independently interpreted and applied Section 11. *Whitley*, 47 N.E.3d at 648. Under Section 11, the State must show the inventory search was reasonable in light of the totality of the circumstances. *Lewis v. State*, 755 N.E.2d 1116, 1127 (Ind. Ct. App. 2001). The validity of a search turns on an evaluation of the reasonableness of the officers’ conduct under the totality of the circumstances. *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005). The reasonableness of a search depends on a balance of “1) the degree of concern, suspicion, or knowledge that a violation has occurred, 2) the degree of intrusion the method of the search or seizure imposes on the citizen’s ordinary activities, and 3) the extent of law enforcement needs.” *Id.* Notwithstanding the independent analytical framework of Section 11, our Supreme Court has found that the factors that speak to the reasonableness of an inventory search under the Fourth Amendment are also relevant to the reasonableness of an inventory search under Section 11. *Whitley*, 47 N.E.3d at 649.

- [22] Under the circumstances of this case, the officers’ decision to impound and search the car was reasonable. Jackson was being arrested for false reporting, so officers were aware a violation had occurred. Furthermore, the car was parked “partially in the road” where it could obstruct traffic. The car did not have a valid license plate or registration, and even if it could be legally operated Jackson could not move it because he did not have a license. Therefore, pursuant to Elkhart Police Department policy, the officers were permitted to

perform an inventory search. In conducting the inventory search, they searched the entire car. However, they did not damage the car or open any locked containers. The contents of the car were inventoried, including many contents that were not incriminating, such as a microwave. Additionally, Jackson was already in police custody at the time, so the degree of intrusion was minimal.

[23] Under these facts and circumstances, we cannot conclude Jackson's rights under Article 1, Section 11 of the Indiana Constitution were violated.

II. Jury Instructions

[24] Jackson also argues the trial court erred "in providing the jury with an incorrect jury instruction" for the charge of carrying a handgun without a license.

Appellant's Br. p. 27. "The purpose of a jury instruction is to inform the jury of the law applicable to the facts without misleading the jury and to enable it to comprehend the case clearly and arrive at a just, fair, and correct verdict."

Batchelor v. State, 119 N.E.3d 550, 553 (Ind. 2019) (quotation omitted). We review a trial court's decision to give or refuse a jury instruction for an abuse of discretion. *Hernandez v. State*, 45 N.E.3d 373, 376 (Ind. 2015). We must consider: "(1) whether the instruction correctly states the law; (2) whether there is evidence in the record to support the giving of the instruction; and (3) whether the substance of the tendered instruction is covered by other instructions which are given." *Id.* (quotation omitted). Before a conviction may be reversed based on instructional error, the defendant must affirmatively show

that the error prejudiced his substantial rights. *Vaughn v. State*, 13 N.E.3d 873, 886 (Ind. Ct. App. 2014), *trans. denied*.

- [25] Because Jackson did not object to the instruction at trial, his claim is waived; therefore, he must demonstrate fundamental error before we may reverse. *See Pattison v. State*, 54 N.E.3d 361, 365 (Ind. 2016). “Error is fundamental if it is a substantial blatant violation of basic principles and where, if not corrected, it would deny a defendant fundamental due process.” *Id.* (quotation omitted).
- [26] Jackson contends Instruction 3 constitutes fundamental error because it omitted the requisite mens rea. Error in the instruction as to mens rea can rise to the level of fundamental error. *Hall v. State*, 937 N.E.2d 911, 913 (Ind. Ct. App. 2010). However, such an error is not fundamental “where either the instructions as a whole sufficiently inform the jury of the required *mens rea* or the defendant’s *mens rea* was not a central issue at trial.” *Id.*
- [27] Instruction 3 omits the critical element of “knowingly or intentionally” from the crime of Class A misdemeanor carrying a handgun without a license. *See Ind. Code* § 35-47-2-1(e) (“A person who knowingly or intentionally violates this section commits a Class A misdemeanor.”). The other instructions as a whole did not sufficiently inform the jury of the mens rea. Instruction 2 states the “charge reads as follows” and provides Jackson “knowingly” possessed and carried a handgun, and Instruction 7 defines the term “knowingly.” But neither instruction informs the jury that to convict Jackson the State must prove he knowingly possessed the handgun without a license. *See Hall*, 937 N.E.2d 911

(finding an instruction giving the incorrect mens rea was not cured by instructions repeating the charging information, which included the correct mens rea, and defining the terms “knowingly” and “intentionally”). That these instructions did not cure the error is further shown by the jury’s confusion during deliberation, when the jury asked if it should consider the element of “knowingly.” Moreover, mens rea was a central issue during phase one of trial. Jackson did not dispute that a gun was found in the trunk of the car he was driving; rather, he argued he didn’t know it was there.

[28] The State acknowledges Instruction 3’s omission of “knowingly” was an error but argues “any error in the omission of an element of carrying a handgun without a license was remedied by the proper instructions provided in the second phase of the trial.” Appellee’s Br. p. 19. It is true the jury instruction given in phase two for the charge of unlawful possession of a firearm by a serious violent felon correctly provided the State must prove the “knowingly” element. However, the State’s argument ignores that during the phase one deliberations the jury asked the court whether “knowingly” was an element of the offense which had to be proven by the State. The court did not answer the question, leaving the jurors in the dark. Because of this, we cannot know if the jury reached the issue of “knowing possession” in phase one.

[29] Then during phase two, although the court instructed the jury on the proper mens rea, the State argued in both its opening and closing arguments that the jury’s only consideration was whether Jackson was a serious violent felon. In its opening statement, the State advised the jury it had “already decided that the

defendant was in possession of that gun” so now the State must prove “the defendant has that prior conviction for robbery.” Tr. Vol. IV p. 53. At closing, the State again notified the jury it had already decided all the other elements of the charge aside from the serious-violent-felon element. While Jackson did attempt to argue about the “knowingly” element during phase two, given the court’s failure to properly instruct the jury in phase one and the State’s arguments in phase two, we are not convinced the jury was aware it needed to deliberate on the “knowingly” element. Instruction 3’s omission was a misstatement of law and the proceedings in phase two, rather than curing this error, merely added another layer of confusion.

[30] As a result, Jackson was denied a fair trial and the process due to him, and his conviction for unlawful possession of a firearm as a serious violent felon must be reversed.

III. Sufficiency of Evidence

[31] Jackson also contends the evidence is not sufficient to support his conviction for unlawful possession of a firearm by a serious violent felon.³ “When, as here, reversal is required because of trial error, and a defendant presents a claim of insufficient evidence, an acquittal instead of a new trial is required if the proof of guilt is insufficient in light of the evidence presented at trial.” *Villaruel v. State*, 52 N.E.3d 834, 838 (Ind. Ct. App. 2016) (citation omitted). In

³ Jackson does not challenge the sufficiency of the evidence with regard to his misdemeanor convictions.

determining whether there is sufficient evidence to support Jackson's conviction, we consider the evidence most favorable to the verdict and the reasonable inferences that can be drawn therefrom, without reweighing the evidence or assessing witness credibility. *Sapen v. State*, 869 N.E.2d 1273, 1279 (Ind. Ct. App. 2007), *trans. denied*.

[32] To convict Jackson of unlawful possession of a firearm by a serious violent felon, the State had to prove Jackson, a serious violent felon, knowingly or intentionally possessed a firearm. *See* Ind. Code § 35-47-4-5. Jackson argues the evidence is not sufficient to prove he knowingly or intentionally possessed the handgun. To satisfy these elements, the State may prove he had actual or constructive possession of the handgun. *Griffin v. State*, 945 N.E.2d 781, 783 (Ind. Ct. App. 2011). Actual possession occurs when a defendant has direct physical control over an item. *Id.* Absent actual possession, constructive possession may support a conviction. *Id.* Constructive possession “occurs when a person has the intent and capability to maintain dominion and control over the item.” *Id.* Here, Jackson did not have direct physical control over the handgun found in the trunk. The question then is whether he constructively possessed it.

[33] Constructive possession requires proof that “the defendant has both (1) the intent to maintain dominion and control and (2) the capability to maintain dominion and control over the contraband.” *Goliday v. State*, 708 N.E.2d 4, 6 (Ind. 1999). Here, it is uncontested Jackson had the capability to maintain dominion and control over the handgun because he was the only person in the

car. At issue is whether the intent element of constructive possession is satisfied. To show the intent element, the State must demonstrate the defendant had knowledge of the contraband. *Erickson v. State*, 68 N.E.3d 597, 601 (Ind. Ct. App. 2017), *trans. denied*. This knowledge may be inferred from either the exclusive dominion and control over the premise containing the contraband, or, if the control is non-exclusive, with evidence of additional circumstances pointing to the defendant's knowledge of the presence of the contraband. *Id.* Evidence of additional circumstances includes: (1) incriminating statements by the defendant, (2) attempted flight or furtive gestures, (3) location of substances like drugs in settings that suggest manufacturing, (4) proximity of the contraband to the defendant, (5) location of the contraband within the defendant's plain view, and (6) the mingling of the contraband with other items owned by the defendant. *Id.*

[34] Although Jackson claims he borrowed the car, and thus its contents including the handgun were not in his exclusive possession, he was the sole occupant of the car when police stopped him. Exclusive possession of a vehicle is sufficient to raise a reasonable inference of intent. *Goliday*, 708 N.E.2d at 6; *see also Crocker v. State*, 989 N.E.2d 812, 822 (Ind. Ct. App. 2013) (“[Defendant’s] exclusive control over the vehicle he was driving is sufficient to establish constructive possession.”), *trans. denied*. Even if it were not, the presence of “additional circumstances” support the inference Jackson had knowledge of the handgun, as the firearm was found in a bag that also contained his identification card and the trunk contained mail addressed to him. *See Shorter v. State*, 144 N.E.3d 829,

840 (Ind. Ct. App. 2020) (evidence sufficient to find defendant constructively possessed firearm in part because it was found in the same bag as “legal documents and mail” belonging to him), *trans. denied*.

[35] There is sufficient evidence to support the conviction for unlawful possession of a firearm as a serious violent felon, so the State is not barred from retrying Jackson on that charge.

[36] Reversed and remanded.

Bradford, C.J., and Brown, J., concur.