

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Jay A. Rigdon
Rockhill Pinnick LLP
Warsaw, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
Samuel J. Dayton
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Timothy Ray Ruggles,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 12, 2023

Court of Appeals Case No.
22A-CR-2016

Appeal from the
Kosciusko Circuit Court

The Honorable
Michael W. Reed, Judge

Trial Court Cause No.
43C01-2111-F6-943

Memorandum Decision by Judge Foley
Judges Vaidik and Tavitas concur.

Foley, Judge.

[1] Timothy Ruggles (“Ruggles”) appeals his conviction for possession of methamphetamine.¹ Ruggles makes two arguments: (1) the jury’s verdicts were inconsistent; and (2) there was insufficient evidence to sustain his conviction. With respect to the first, Ruggles raises an unappealable issue, and we will not consider it. As to the second, Ruggles fails to persuade us that the evidence presented at trial was insufficient. We affirm.

Facts and Procedural History

[2] On November 8, 2021, police officers from multiple agencies executed a search warrant in Warsaw, Indiana. During the search, officers apprehended Ruggles, who was standing in a first-floor kitchen next to the entrance to the basement. Once the residence was secured, police searched the basement and found a “blue winter coat in the middle of the floor.” Tr. Vol. II p. 48. The pockets contained “court paperwork and a hypodermic needle.” *Id.* The paperwork was for Ruggles, who was, at the time, facing an array of criminal charges for various unrelated matters.² The plunger from the syringe subsequently tested positive for methamphetamine residue. One officer testified, without elaboration, that other “drugs” were found in the basement. *Id.* at 55. Moreover, other syringes were recovered elsewhere in the residence. Police recovered methamphetamine, digital scales, and glass smoking devices which

¹ Indiana Code Section 35-48-4-6.1.

² A photograph of only one of the papers was submitted at trial, though the photograph suggests that there were several papers in the jacket. Ex. Vol. III p. 17. The one depicted appears to be a charging information for a misdemeanor trespass.

are commonly used to ingest methamphetamine “in pretty much every bedroom in the house” including those in the basement. *Id.* at 84.

[3] Ruggles was placed under arrest and read his *Miranda* rights. He waived the rights and volunteered to police that he had previously received “dope” but that he had flushed it.³ *Id.* at 88. Finally, an officer testified that he had been surveilling the house where Ruggles was arrested and had conducted a traffic stop of someone who left the house. The stop revealed methamphetamine inside the car.⁴

[4] The State charged Ruggles on November 22, 2021, with possession of methamphetamine as a Level 6 felony, possession of a syringe as a Level 6 felony, and visiting a common nuisance as a Class B misdemeanor. After a jury trial, Ruggles was convicted of possession of methamphetamine and visiting a common nuisance but acquitted of possession of a syringe. This appeal ensued.

Discussion and Decision

[5] We first briefly address Ruggles’s contention that the jury’s “verdicts are inconsistent; they can no more stand as a matter of logic than one can find that the coffee in one’s hand is possessed by that person while the cup in which the coffee resides is not.” Appellant’s Br. p. 9. Nevertheless, we are bound, by our

³ As Ruggles’s trial counsel pointed out in argument regarding a motion for a directed verdict, there were no temporal qualifiers to Ruggles’s admission.

⁴ There is some suggestion in the record that Ruggles claimed that the “dope” he had destroyed came from the driver of the car.

Supreme Court’s decision in *Beattie v. State*, 924 N.E.2d 643 (Ind. 2010), as Ruggles expressly acknowledges. The *Beattie* Court held that “inconsistent jury verdicts are not subject to appellate review,” even if those verdicts are “extremely contradictory and irreconcilable.” 924 N.E.2d at 649. Ruggles suggests that *Beattie* may be distinguishable, but we do not read *Beattie* as being a narrow ruling deriving from the circumstances of that particular case. The inconsistency of verdicts is a matter categorically excluded from appellate review. We decline Ruggles’s invitation to distinguish *Beattie*.

[6] Ruggles next argues that there was insufficient evidence to sustain his conviction for possession of methamphetamine. Sufficiency of evidence claims “warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility.” *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). We consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. *Id.* (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). “We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* at 263. We affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the

verdict.” *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146–47 (Ind. 2007)).

[7] We consider the matter here to be one of constructive possession. “For the State to prove constructive possession, it must prove the defendant had the intent and capability to maintain dominion and control over the contraband.” *Parks v. State*, 113 N.E.3d 269, 273 (Ind. Ct. App. 2018) (citing *Lampkins v. State*, 682 N.E.2d 1268, 1275 (Ind. 1997), *modified on reh’g on other grounds*, 685 N.E.2d 698 (Ind. 1997)).

[8] We begin by addressing Ruggles’s capability to maintain dominion and control over the contraband. “The capability requirement is met when the state shows that the defendant is able to reduce the controlled substance to the defendant’s personal possession.” *Goliday v. State*, 708 N.E.2d 4, 6 (Ind. 1999) (citing *Lampkins*, 682 N.E.2d at 1275). The evidence demonstrated that the contraband was inside a jacket on the floor of the basement, and that Ruggles was in the kitchen close to the basement door. We see no reason to doubt that Ruggles could have walked down the basement steps and picked up the jacket, which contained the contraband.

[9] We next address the evidence concerning Ruggles’s intent to maintain dominion and control over the contraband. “To prove intent to maintain dominion and control, there must be additional circumstances supporting the inference of intent.” *Parks*, 113 N.E.3d at 273.

Proof of dominion and control, and therefore knowledge, of contraband has been found through a variety of means: (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. *Henderson v. State*, 715 N.E.2d 833, 836 (Ind. 1999). . . . "When constructive possession is alleged, the State must demonstrate the defendant's knowledge of the contraband." *Bradshaw v. State*, 818 N.E.2d 59, 63 (Ind. Ct. App. 2004).

Parks, 113 N.E.3d at 273. We further note that the set of circumstances that can be used to demonstrate a defendant's knowledge of the presence of contraband, as listed above, is not an exhaustive list. *Smith v. State*, 787 N.E.2d 458, 460 (Ind. Ct. App. 2003).

[10] There was sufficient evidence for the jury to infer that Ruggles intended to maintain dominion and control over the contraband found in the jacket. The jury could have reasonably concluded, after all, that this was Ruggles's jacket: it contained his court papers. There was substantial evidence of drug use in the house including paraphernalia and methamphetamine. Police stopped someone leaving the house and discovered methamphetamine. And Ruggles made an incriminating statement wherein he admitted to possessing contraband. Taken together this evidence could lead a reasonable jury to conclude that Ruggles knew of the contraband and intended to exercise control over it. We conclude that the evidence adduced at trial was sufficient to sustain a conviction for possession of methamphetamine.

[11] **Affirmed.**

Vaidik, J. and Tavitas, J., concur.