

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Matthew D. Crowder,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 6, 2023

Court of Appeals Case No.
22A-CR-2745

Appeal from the Warren Circuit
Court

The Honorable Hunter J. Reece,
Judge

Trial Court Cause No.
86C01-2106-F5-54

Memorandum Decision by Judge Robb
Judges Crone and Kenworthy concur.

Robb, Judge.

Case Summary and Issue

- [1] Following a jury trial, Matthew Crowder was convicted of possession of methamphetamine, a Level 5 felony, and unlawful possession of a syringe, a Level 6 felony. Crowder appeals, raising one issue for our review which we restate as whether the State presented sufficient evidence to sustain his convictions. Concluding there was sufficient evidence to support Crowder's convictions, we affirm.

Facts and Procedural History

- [2] On June 15, 2021, Crowder was driving a riding lawn mower on a public road when he was hit by another vehicle. Paramedics and police were dispatched to the scene. Initially, Crowder was lying on the ground being treated by paramedics. He was then placed on a stretcher. After Crowder was placed on the stretcher, Deputy Koty Perry of the Warren County Sheriff's Office noticed a baggie containing a "crystal like" substance on the ground where Crowder had been lying. Transcript, Volume 2 at 32. Paramedics then found syringes in Crowder's pocket prior to transporting him to the hospital. The baggie was later tested and determined to contain 3.56 grams of methamphetamine.
- [3] At the hospital, Crowder told Deputy Perry that he had gotten the bag of methamphetamine from Indianapolis a few days prior. Crowder also told Deputy Perry that he usually injected methamphetamine with syringes. On June 18, the State charged Crowder with possession of methamphetamine, a

Level 5 felony,¹ and unlawful possession of a syringe, a Level 6 felony. The State also alleged Crowder was an habitual offender. At the jury trial, Crowder testified the methamphetamine was not his and the syringes found on his person were not intended to inject drugs into his body.

[4] The jury found Crowder guilty of possession of methamphetamine and unlawful possession of a syringe. Crowder had previously admitted to an enhancing circumstance that raised the possession of methamphetamine conviction from a Level 6 to a Level 5 felony and to being an habitual offender. The trial court entered judgment accordingly and sentenced Crowder to an aggregate term of ten years executed in the Indiana Department of Correction. Crowder now appeals.

Discussion and Decision

Sufficiency of the Evidence

A. Standard of Review

[5] Crowder contends the evidence was insufficient to support his convictions. When reviewing the sufficiency of the evidence to support a conviction, we consider only probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We neither reweigh the

¹ Crowder's possession of methamphetamine charge was enhanced due to prior convictions. *See* Ind. Code § 35-48-4-6.1(b)(2).

evidence nor assess the credibility of witnesses. *Id.* We consider conflicting evidence most favorably to the judgment. *Silvers v. State*, 114 N.E.3d 931, 936 (Ind. Ct. App. 2018). We will affirm the conviction unless no reasonable factfinder could conclude the elements of the crime were proven beyond a reasonable doubt. *Id.*

B. Possession of Methamphetamine

[6] Crowder argues the State presented insufficient evidence to support his conviction of possession of methamphetamine. To convict Crowder of possession of methamphetamine, the State was required to prove beyond a reasonable doubt that Crowder, without a valid prescription, knowingly or intentionally possessed methamphetamine. Ind. Code § 35-48-4-6.1(a). Crowder contends the State failed to show that he possessed the methamphetamine found at the scene.

[7] We have long recognized a conviction for a possessory offense may rest upon proof of either actual or constructive possession. *Goodner v. State*, 685 N.E.2d 1058, 1061 (Ind. 1997). Because Crowder did not have actual possession of the methamphetamine, the State had to prove he had constructive possession of it. To prove constructive possession, the State must show 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. *Jones v. State*, 807 N.E.2d 58, 65 (Ind. Ct. App. 2004), *trans. denied*.

[8] The capability prong may be satisfied by “proof of a possessory interest in the premises on which illegal drugs are found[.]” *Gee v. State*, 810 N.E.2d 338, 340 (Ind. 2004). This is so regardless of whether the possession of the premises is exclusive. *Id.* at 341. Further, capability can be shown when contraband is easily within reach. *See Lampkins v. State*, 682 N.E.2d 1268, 1275 (Ind. 1997) (“Because the [bottle containing cocaine] was under defendant’s seat and easily within his reach, he was able to reduce the cocaine to his personal possession.”) (internal quotation marks omitted).

[9] The intent element of constructive possession is shown by demonstrating a defendant’s knowledge of the presence of the contraband. *See Armour v. State*, 762 N.E.2d 208, 216 (Ind. Ct. App. 2002), *trans. denied*. However, when possession of the premises is non-exclusive, additional circumstances must be present to support the inference that the defendant intended to maintain dominion and control over the contraband and that the defendant had actual knowledge of its presence and illegal character. *Macklin v. State*, 701 N.E.2d 1247, 1251 (Ind. Ct. App. 1998). These additional circumstances can include:

(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.

Parks v. State, 113 N.E.3d 269, 273 (Ind. Ct. App. 2018). These enumerated circumstances are non-exhaustive; ultimately, the question is whether a

reasonable factfinder could conclude from the evidence that the defendant knew of the nature and presence of the contraband. *See Gray v. State*, 957 N.E.2d 171, 174-75 (Ind. 2011).

[10] Here, Crowder was lying on the ground on a public road and after Crowder was assisted onto a stretcher, Deputy Perry saw a baggie containing methamphetamine on the ground where Crowder had been laying. Also, syringes were found on Crowder's person and Crowder would later tell Deputy Perry that the bag was his and that he usually injected methamphetamine with syringes. These facts would allow a factfinder to reasonably infer that Crowder had both the intent and capability to maintain control and dominion over the methamphetamine.

[11] The evidence was sufficient to support Crowder's conviction for possession of methamphetamine.

C. Unlawful Possession of a Syringe

[12] Crowder also argues the State presented insufficient evidence to support his conviction of unlawful possession of a syringe. To convict Crowder of unlawful possession of a syringe, the State was required to prove beyond a reasonable doubt that he possessed a hypodermic syringe for the use of a controlled substance or legend drug by injection in a human being with intent to violate the Indiana Legend Drug Act or to commit a controlled substance offense. Ind. Code § 16-42-19-18; *Berkhardt v. State*, 82 N.E.3d 313, 315 (Ind. Ct. App. 2017). Crowder does not contest that he possessed the syringes; however, he contends

the State failed to prove that he possessed the syringes found on his person with the intent to “inject methamphetamine into his body” or “for any illegitimate reason.” Appellant’s Brief at 15.

[13] Intent to introduce a controlled substance into one’s body may be inferred from circumstantial evidence. *Perkins v. State*, 57 N.E.3d 861, 865 (Ind. Ct. App. 2016). Here, when Crowder was found with the syringes on his person, methamphetamine was also found where he had been lying. Further, Crowder told Deputy Perry that his usual method of ingesting methamphetamine was via syringe. And although Crowder would later testify that he did not intend to inject drugs into himself with the syringes, the jury disbelieved him, and we do not assess witness credibility. *Drane*, 867 N.E.2d at 146.

[14] Crowder’s argument is essentially a request to reweigh the evidence, which we will not do. *See id.* The evidence was sufficient to support Crowder’s conviction of unlawful possession of a syringe.

Conclusion

[15] We conclude the State presented sufficient evidence to support Crowder’s convictions.

[16] Affirmed.

Crone, J., and Kenworthy, J., concur.