[Cite as *State v. Williams*, 2010-Ohio-3383.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 09AP-1152 (C.P.C. No. 07CR-10-7067)
Larry J. Williams, Jr.,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on July 20, 2010

Ron O'Brien, Prosecuting Attorney, and *Sarah W. Creedon*, for appellee.

W. Joseph Edwards, for appellant.

APPEAL from the Franklin County Court of Common Pleas

TYACK, P.J.

{¶1} Larry J. Williams, Jr. ("appellant"), is appealing from his conviction of a charge of possession of cocaine in violation of R.C. 2925.11. He assigns a single error for our consideration:

> THE TRIAL COURT ERRED WHEN IT ENTERED JUDGMENT AGAINST THE APPELLANT WHEN THE EVIDENCE WAS INSUFFICIENT TO SUSTAIN A CONVICTION AND WAS NOT SUPPORTED BY THE MANIFEST WEIGHT OF THE EVIDENCE.

R.C. 2925.11(A) reads:

> No person shall knowingly obtain, possess, or use a controlled substance.

{¶2} R.C. 2925.11(C)(4) provides:

> If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of possession of cocaine. The penalty for the offense shall be determined as follows:
>
> (a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), or (f) of this section, possession of cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.
>
> (b) If the amount of the drug involved equals or exceeds five grams but is less than twenty-five grams of cocaine that is not crack cocaine or equals or exceeds one gram, but is less than five grams of crack cocaine, possession of cocaine is a felony of the fourth degree, and there is a presumption for a prison term for the offense.
>
> (c) If the amount of the drug involved equals or exceeds twenty-five grams but is less than one hundred grams of cocaine that is not crack cocaine or equals or exceeds five grams but is less than ten grams of crack cocaine, possession of cocaine is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree.
>
> (d) If the amount of the drug involved equals or exceeds one hundred grams but is less than five hundred grams of cocaine that is not crack cocaine or equals or exceeds ten grams but is less than twenty-five grams of crack cocaine, possession of cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.
>
> (e) If the amount of the drug involved equals or exceeds one hundred times the bulk amount, aggravated possession of

> drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.
>
> (f) If the amount of the drug involved equals or exceeds one thousand grams of cocaine that is not crack cocaine or equals or exceeds one hundred grams of crack cocaine, possession of cocaine is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

{¶3} "Possess" is defined by R.C. 2925.01(K) as follows:

> "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

{¶4} In order to prove appellant's guilt beyond a reasonable doubt, the State of Ohio needed to prove that appellant knowingly had control over the cocaine found in the pocket of a jacket he was wearing when he was approached by police and searched.

{¶5} "Knowingly" is defined by R.C. 2901.22(B). The statutory provision reads:

> A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.

{¶6} The statutory definition of "knowingly" does not require that appellant know that cocaine was in his pocket to an absolute certainty. Instead, the State of Ohio had only to show that appellant was aware that he probably had cocaine in his pocket.

{¶7} Appellant presented no evidence in the defense case at his trial, so the only evidence about possession was the testimony of two Columbus police officers, Jeffrey M. Lokai and Jeff Spencer.

{¶8} Sergeant Lokai testified that in April 2007, he was working in the Eighth Precinct in the city of Columbus, Ohio, as part of a bicycle patrol unit. While riding through a Knight's Inn, he saw appellant. He stopped appellant and searched him. Sergeant Lokai found crack cocaine inside appellant's left front coat pocket. Sergeant Lokai testified that Sergeant Spencer found some marijuana inside a pocket in appellant's clothing.

{¶9} Sergeant Lokai testified that appellant was wearing the jacket in which the crack cocaine was found and that the jacket fit appellant. The pocket in which the crack cocaine was found was a side pocket of the jacket.

{¶10} On cross-examination, Sergeant Lokai acknowledged that he could not state when the crack cocaine had been placed in the jacket pocket or how long it had been there. Sergeant Lokai also acknowledged that he did not know who owned the coat or when appellant had put the coat on. Sergeant Lokai testified that he did not know if anyone else had worn the coat recently. Sergeant Lokai assumed the coat was appellant's coat because appellant had it on.

{¶11} The second evidence at appellant's trial was Sergeant Spencer. Sergeant Spencer searched appellant's clothing on the right side and found a small baggie of marijuana. Spencer was aware that Lokai found a small baggie of crack cocaine in the search. Spencer also acknowledged that he assumed the coat belonged to appellant because appellant was wearing it.

{¶12} The case law regarding appellate review of the weight and sufficiency of the evidence presented at trial has been relatively stable over the years.

{¶13} Sufficiency of the evidence is the legal standard applied to determine whether the case should have gone to the jury. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52. In other words, sufficiency tests the adequacy of the evidence and asks whether the evidence introduced at trial is legally sufficient as a matter of law to support a verdict. Id. "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Jenks* (1991), 61 Ohio St.3d 259, paragraph two of the syllabus, following *Jackson v. Virginia* (1979), 443 U.S. 307, 99 S.Ct. 2781. The verdict will not be disturbed unless the appellate court finds that reasonable minds could not reach the conclusion reached by the trier of fact. *Jenks* at 273.

{¶14} Given our limited ability to review the evidence, we must overrule the assignment of error. A jury could reasonably find that a person who had two controlled substances in his or her jacket pockets or pants pockets was probably aware of the presence of the controlled substances in his or her clothing. The mere presence is

sufficient to establish possession without other evidence. With no other evidence to weigh against the natural inference that a person know what is in the pockets of the clothing they are wearing, the evidence which is sufficient to establish guilt will be consistent with the greater weight of the evidence.

{¶15} The sole assignment of error is overruled. The judgment of the Franklin County Court of Common Pleas is therefore affirmed.

Judgment affirmed.

BROWN and McGRATH, JJ., concur.

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