

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR10-287

COREY D. WOODS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered October 6, 2010

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
FOURTH DIVISION
[NOS. CR-2005-5150, CR-2009-1280]

HONORABLE HERBERT WRIGHT,
JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

The circuit court found appellant, Corey D. Woods, guilty of possession of a controlled substance with the intent to deliver, maintaining a drug premises, possession of drug paraphernalia, and simultaneous possession of drugs and firearms. The court also revoked appellant's probation for committing the felonies. Appellant contends that the evidence is insufficient to support his convictions or his revocation. Particularly, he argues that there is no evidence that he had knowledge and control over the contraband or that there was a connection between the firearm and the drugs. We affirm.

The State presented the testimony of a Little Rock Police Department detective who participated in the execution of a search warrant at a Little Rock residence. The detective testified that when he entered the residence, appellant was in the living room of the

residence. A sixteen-year-old male, who was a few days short of his seventeenth birthday, was also present in the residence. In the “upper corner” of the garage of the residence, the detective found a sock containing two pill bottles, with one containing 22.9365 grams of cocaine base and the other containing 6.1142 grams of cocaine base. He described the location of the sock as “up in the top corner above the rail of the garage” and in plain sight. The detective testified that one had to go through the kitchen to get to the garage. The detective also found appellant’s driver’s license on the kitchen counter. Appellant’s address on his license was the same as the address of the residence. In a closet in the master bedroom of the residence the detective found a loaded nine-millimeter handgun. The detective stated that to find the gun in the closet, “you had to look for it.” He also testified that another detective also found a set of digital scales, though there was no testimony about where the scales were found.

In challenging the sufficiency of the evidence to support the convictions and the revocation, appellant argues that there was insufficient evidence that he had knowledge and control of the contraband. In making this argument, he asserts that another person was present in the residence at the time of the search; that no contraband was found in the living room; that the contraband was not in plain view; and that appellant was not linked to the bedroom or closet where the handgun was found or to the scales or to the cocaine found in the sock. He further argues that there was no connection between the gun found in the closet and the drugs found in the garage.

It is not necessary that the State prove literal physical possession of contraband. *Morgan v. State*, 2009 Ark. 257, 308 S.W.3d 147. Contraband is constructively possessed if the location of the contraband was under the dominion and control of the accused. *Id.* Constructive possession occurs where there is joint occupancy of the premises and where there are additional factors linking the accused to the contraband. *Id.* Those additional factors include whether the accused exercised care, control, and management over the contraband and whether the accused knew the material was contraband. *Id.* This control and knowledge can be inferred from the circumstances, such as the proximity of the contraband to the accused, the fact that it is in plain view, and the ownership of the property where the contraband was found. *Id.*

As in the Arkansas Supreme Court's decision in *Morgan*, which was also a constructive possession case, appellant's argument focuses on what evidence was not presented to prove his guilt. However, as our supreme court held in *Morgan*, we review the evidence introduced in the light most favorable to the State and consider only the evidence supporting the verdict. In doing so, and in considering our supreme court's decision in *Morgan*, we are constrained to conclude that there was substantial evidence to support the circuit court's findings. Furthermore, we conclude that the court's decision that appellant violated the terms of his probation was not clearly against the preponderance of the evidence. *Barbee v. State*, 346 Ark. 185, 56 S.W.3d 370 (2001).

Here, appellant constructively possessed the contraband. Appellant's connection to the residence was his driver's license, which was found, not in his wallet, but on a kitchen

counter. His driver's license stated his address as the residence in which he was standing at the time of his arrest. Appellant's presence at his residence where the contraband was found provided the basis to support the court's finding that appellant constructively possessed the contraband. We further note that to gain a conviction for simultaneous possession of a controlled substance and a firearm, the State must prove that the defendant possessed a firearm and that a connection existed between the firearm and the controlled substance. *Stanton v. State*, 344 Ark. 589, 42 S.W.3d 474 (2001).¹ Here, appellant constructively possessed both the drugs and the firearm, as both were located in his residence, while he was present, thus establishing a connection between the two. Given this evidence, we conclude that substantial evidence supports appellant's convictions and that a preponderance of the evidence supports appellant's revocation, and we affirm.

Affirmed.

VAUGHT, C.J., and PITTMAN, J., agree.

¹The statute provides that the crime of simultaneous possession of drugs and firearms requires proof that a person "unlawfully commit a felony violation" that would include possession of a controlled substance with the intent to deliver "while in possession of . . . [a] firearm." Ark. Code Ann. § 5-74-106(a)(1) (Supp. 2009).