

Cite as 2023 Ark. App. 575

# ARKANSAS COURT OF APPEALS

DIVISION I

No. CR-23-269

LEA MERRITT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered December 13, 2023

APPEAL FROM THE HOT SPRING  
COUNTY CIRCUIT COURT  
[NO. 30CR-21-275]

HONORABLE CHRIS E WILLIAMS,  
JUDGE

AFFIRMED

**BRANDON J. HARRISON, Chief Judge**

Lea Merritt appeals her convictions on two counts of possession of a controlled substance, arguing that the circuit court erred in denying her motion for directed verdict. We affirm.

In October 2021, the State charged Merritt with two counts of possession of a controlled substance (methamphetamine). She was also charged as a habitual offender. The circuit court convened a jury trial in September 2022, and Detective Susan Turner with the Hot Spring County Sheriff's Office testified that on 25 August 2021, she and other officers had executed a search warrant for stolen property on Merritt's property. The search included all vehicles on Merritt's property and the shed that she used as her residence. Merritt's purse was located inside her truck, and inside her purse, police found mail addressed to Merritt and a bag of what appeared to be methamphetamine.

On cross-examination, Turner agreed that police had first visited Merritt's property on August 21 and recovered several large items of stolen property, including a vehicle and a power washer. Merritt had also been arrested on August 21 and remained in custody when police executed the search warrant on August 25. The defense asked whether the passenger door to Merritt's truck had been open on August 21, but Turner did not recall. The defense then refreshed Turner's memory with a report in which Turner had purportedly stated that on August 21, she observed Merritt's truck with the passenger door open.<sup>1</sup> Turner agreed that in a photo taken on August 25, the passenger door on Merritt's truck was closed. Turner also agreed that the shed did not appear to have a lock on it.

On redirect, Turner stated that she did not know if the purse had been in the truck on August 21, but it was inside the truck on August 25, and there was no indication that anyone had been to the property between those two dates.

Deputy Austin Hughes testified that he assisted in the search of Merritt's property on August 25 and that inside the shed, he found a black makeup bag that contained five small baggies of a clear crystal-like substance.

Candice Foscue with the Arkansas State Crime Laboratory confirmed that the substance found in the black makeup bag and in Merritt's purse was methamphetamine. She also testified that the baggies inside the black makeup bag contained at least 3.3 grams of methamphetamine, and the bag found inside Merritt's purse contained 6.7 grams of methamphetamine.

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<sup>1</sup>This report was not introduced into evidence, so we cannot review it or verify its contents.

After the State rested, defense counsel moved for a directed verdict on both counts. Counsel argued that the State had “failed to present a prima facie case from which a reasonable jury could find that Lea Merritt was either in actual or constructive possession of methamphetamine much less whether or not any possession was knowingly or purposely.” Counsel asserted that the last time Merritt could have been in possession of methamphetamine was August 21, that police did not return to the property and find the methamphetamine until four days later, and that the property had not been secured during that time. Therefore, the only way the jury could reach a guilty verdict would be through speculation and conjecture. The circuit court denied the motion.

The defense re-called Detective Turner to the stand and introduced documents showing that Christopher Williams, who had been arrested along with Merritt on August 21, had pled guilty to charges of possession of a controlled substance and theft by receiving. The defense also introduced evidence that a charge of theft by receiving against Merritt had been nolle prossed.

The circuit court denied the renewed motion for directed verdict, and the jury found Merritt guilty on both counts. Merritt received an aggregate sentence of thirty years’ imprisonment and has timely appealed her convictions.

A motion for a directed verdict at a jury trial is a challenge to the sufficiency of the evidence. *See Ark. R. Crim. P. 33.1 (2023)*. In reviewing a challenge to the sufficiency of the evidence, this court determines whether the verdict is supported by substantial evidence, direct or circumstantial. *Foster v. State*, 2015 Ark. App. 412, 467 S.W.3d 176. Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond

suspicion or conjecture. *Id.* We view the evidence in the light most favorable to the verdict, and only evidence supporting the verdict will be considered. *Id.* Circumstantial evidence may provide a basis to support a conviction if it is consistent with the defendant's guilt and inconsistent with any other reasonable conclusion. *Caple v. State*, 2020 Ark. 340, 609 S.W.3d 630. Whether the evidence excludes all other reasonable hypotheses that show innocence is a decision for the jury. *Allen v. State*, 2022 Ark. App. 110, 640 S.W.3d 446.

Merritt contends, as she did below, that at the time the police discovered the methamphetamine, she had been in jail for four days, her property had been left unsecured, and the door to her truck had been open on August 21 but closed on August 25. She argues, "The only evidence adduced by the state was that [the contraband] was found in her purse and in her residence. No other evidence supports this conviction. This would lead a jury to speculation and conjecture about whether Appellant knowingly or purposely possessed methamphetamine."

We disagree. Merritt does not deny that it was her residence, her truck, her purse, or her makeup bag in which the methamphetamine was found. Her only argument appears to be that because the shed was possibly unlocked and the passenger door of her truck was possibly open for the four days between her arrest and the execution of the search warrant, the jury necessarily had to speculate to conclude that she possessed the methamphetamine. Viewing the evidence in the light most favorable to the verdict, we hold that the jury did not have to resort to speculation or conjecture to find Merritt guilty of possession of a controlled substance.

Affirmed.

GLADWIN and HIXSON, JJ., agree.

*Gregory Crain*, for appellant.

*Tim Griffin*, Att’y Gen., by: *A. Evangeline Bacon*, Ass’t Att’y Gen., for appellee.