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ARKANSAS COURT OF APPEALS

DIVISION IV

No. CR-23-562

BRITTANY CHAMBERS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 17, 2024

APPEAL FROM THE CRAWFORD
COUNTY CIRCUIT COURT
[NO. 17CR-22-841]

HONORABLE CANDICE S. SETTLE,
JUDGE

AFFIRMED

CINDY GRACE THYER, Judge

Appellant Brittany Chambers was convicted by a Crawford County jury of one count each of trafficking fentanyl, simultaneous possession of drugs and firearms, possession of cocaine with purpose to deliver, and theft by receiving. She received an aggregate sentence of thirty-five years in the Arkansas Division of Correction. On appeal, Chambers challenges the sufficiency of the evidence supporting her convictions for trafficking fentanyl and possession of cocaine with purpose to deliver. We find no error and affirm.

I. *Trial Testimony*

Arkansas State Police Trooper Matthew Price initiated a traffic stop of Chambers's Suburban that was following another vehicle too closely. His subsequent encounter with Chambers was captured on his dash-cam video, which was introduced into evidence at Chambers's trial. The video reflected that after Price asked Chambers for her license and

registration, he asked if Chambers had anything illegal in her car. Although Chambers initially said no, she quickly added that she had a medical-marijuana card and some marijuana in the car. Price asked if she had anything else; Chambers replied that she usually had a weapon, but she did not have it with her. She denied having anything else in the car. According to Price, Chambers seemed “really really nervous.”

When Price looked at Chambers’s medical-marijuana card, he saw that it had expired. Price told her that he was “not here to jam you up on some marijuana,” but since her card was expired, she was “basically . . . in possession of marijuana,” which gave him probable cause to search her vehicle. At that point, Price asked Chambers and her seventeen-year-old daughter to step out of the vehicle. State Trooper Landan Reather, who was assisting Price on the stop, noticed that Chambers’s daughter had a bulge in the crotch area of her shorts. Price asked the daughter to remove “whatever you got in there.” The daughter said, “It’s mine,” but Chambers immediately stated, “It’s not yours, it’s mine.”

The bulging item--a Crown Royal bag--was removed. Price asked Chambers what was in the bag, and Chambers said she thought they were “X pills” and were supposed to be “ecstasy and coke.” Price asked whether Chambers had given her daughter the bag to put in her shorts, and Chambers said she had not. The following exchange then occurred:

PRICE: So you’re telling me that she’s in possession of it? Is that what you’re telling me?

CHAMBERS: I didn’t tell her to do it. She probably did it because she was trying to help me.

PRICE: Okay.

CHAMBERS: But I didn't give it to her.

PRICE: Just--just put her in there.

CHAMBERS: But that's mine.

Price and Reather also discovered two handguns in the center console of Chambers's car. After calling the serial numbers in to dispatch, the troopers learned that one of them had been stolen. Despite her previous statement that she did not have a weapon on her, Chambers claimed that she had bought it on the street and did not know that it was stolen.

On cross-examination, Price acknowledged that neither the drugs nor the guns had been found on Chambers's person. He also conceded that his search of her car did not uncover any scales, baggies, or ledgers showing that she had clients to whom she was selling. On redirect, however, he pointed out that the quantities of drugs he found on Chambers were not consistent with someone possessing it for personal use.

Rebekah Manger, a forensic chemist with the state crime lab, tested the substances that were found during the traffic stop and ensuing search. The substances were determined to be fentanyl and cocaine.¹

¹In this appeal, Chambers does not challenge the identification or the weight of the drugs as being sufficient to sustain her convictions for trafficking fentanyl and possession of cocaine with purpose to deliver. Nevertheless, the laboratory analysis indicated that Manger received fifty-five blue tablets weighing 5.9511 grams; of those tablets, one was tested and was determined to be fentanyl and acetaminophen. In addition, Manger received a zip-lock bag containing an off-white rock-like substance that was determined to be 24.6466 grams of cocaine.

At the close of the State's case, Chambers moved for directed verdict on the possession charges, arguing that there had not been sufficient evidence that she either actually or constructively possessed the cocaine and fentanyl.² The court denied the motion. Chambers then rested and renewed her motion, which was again denied. The jury subsequently convicted her on all four counts and recommended a sentence of thirty-five years in the Arkansas Division of Correction.

II. *Standard of Review*

On appeal, Chambers argues that the circuit court erred in denying her directed-verdict motion on the counts of trafficking fentanyl and possession of cocaine with purpose to deliver. We treat a motion for directed verdict as a challenge to the sufficiency of the evidence. *Armstrong v. State*, 2020 Ark. 309, 607 S.W.3d 491. In reviewing a sufficiency challenge, we assess the evidence in the light most favorable to the State and consider only the evidence that supports the verdict. *Id.* We will affirm a judgment of conviction if substantial evidence exists to support it. *Block v. State*, 2023 Ark. App. 358. Substantial evidence is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other without resorting to speculation or conjecture. *Id.* The credibility of witnesses is an issue for the jury, not the court; the trier of

²Chambers also moved for directed verdict on the counts of simultaneous possession of drugs and a firearm and theft by receiving. She does not challenge those convictions on appeal.

fact is free to believe all or part of any witness's testimony and may resolve questions of conflicting testimony and inconsistent evidence. *Armstrong, supra*.

III. Discussion

A person engages in trafficking a controlled substance if he or she possesses, possesses with the purpose to deliver, delivers, or manufactures (among other things) one gram or more of fentanyl. Ark. Code Ann. § 5-64-440(b)(2) (Supp. 2023). Moreover, Arkansas Code Annotated section 5-64-420(a) (Supp. 2023) makes it unlawful for a person to possess cocaine with the purpose to deliver it. Chambers does not challenge the State's proof regarding her purpose to deliver either the fentanyl or the cocaine. Rather, she argues that the State failed to prove that she was in actual or constructive possession of either controlled substance.

It was undisputed at trial that Chambers was not in actual possession of the drugs. It is not necessary, however, for the State to prove literal physical possession of contraband to prove possession. *Mings v. State*, 318 Ark. 201, 884 S.W.2d 596 (1994). Possession of contraband can be proved by constructive possession. *Id.* Constructive possession requires the State to prove beyond a reasonable doubt that (1) the defendant exercised care, control, and management over the contraband, and (2) the accused knew the matter possessed was contraband. *Baltimore v. State*, 2017 Ark. App. 622, 535 S.W.3d 286.

Constructive possession can be inferred when the contraband is in the joint control of the accused and another. *Mings*, 318 Ark. 201, 884 S.W.2d 596. However, joint occupancy of a vehicle, standing alone, is not sufficient to establish possession or joint possession. *Id.* There must be some other factor linking the accused to the contraband. *Id.* Other factors to

be considered in cases involving automobiles occupied by more than one person are (1) whether the contraband is in plain view; (2) whether the contraband is found with the accused's personal effects; (3) whether it is found on the same side of the car seat as the accused was sitting or in near proximity to it; (4) whether the accused is the owner of the automobile or exercises dominion and control over it; and (5) whether the accused acted suspiciously before or during the arrest. *Id.* There is no requirement that all or even a majority of the linking factors be present to constitute constructive possession of the contraband. *McCastle v. State*, 2012 Ark. App. 162, 392 S.W.3d 369. Proof that the defendant is the driver of the vehicle is evidence that she exercised dominion and control over it. *Thomas v. State*, 2024 Ark. App. 159, ___ S.W.3d ___.

Chambers argues that the State failed to present sufficient evidence that she was ever seen in actual or constructive possession of the drugs that were found in her daughter's shorts. She notes that no fingerprint analysis was performed on the drugs, the Crown Royal bag, or the zip-lock bags that contained the drugs. She further claims that "no evidence was presented that [she] made any admissions or statements as to ownership of the controlled substance until her daughter was caught in possession of the drugs." These facts, she contends, compel a conclusion that the proof was insufficient to convict her of possession or trafficking of a controlled substance.

As the State points out, however, proof was introduced from which the jury could determine that Chambers constructively possessed the contraband. Trooper Price described Chambers as "really really nervous" when he pulled her over. *See Kinnard v. State*, 2023 Ark.

App. 28 (citing defendant's nervousness as supporting constructive possession). Chambers was the driver of the vehicle. See *Thomas*, 2024 Ark. App. 159, at 7, ___ S.W.3d at ___ (“Proof that the defendant is the driver of the vehicle is evidence that she exercised dominion and control over it.”). And perhaps more critically, she admitted that the drugs in the Crown Royal bag belonged to her. Viewing the evidence in the light most favorable to the State, we conclude that there was sufficient evidence from which a jury could find that Chambers constructively possessed the contraband.

Affirmed.

ABRAMSON and MURPHY, JJ., agree.

Trent D. Thomas, for appellant.

Tim Griffin, Att’y Gen., by: *Kent G. Holt*, Ass’t Att’y Gen., for appellee.