

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID CHARLES ADAMS,

No. 36930

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

SEP 12 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of two counts of trafficking in a controlled substance. The district court sentenced appellant to serve two concurrent terms of 25 years in prison with a minimum parole eligibility of 10 years. Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

Appellant's sole contention is that the State adduced insufficient evidence to support the jury's verdict. In particular, appellant argues that the State failed to prove, beyond a reasonable doubt, that he had possession of the methamphetamine found in the vehicle he was driving or the motel room where he was staying. We disagree.

When reviewing a claim of insufficient evidence, the relevant inquiry is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."<sup>1</sup> Furthermore, "it is the

<sup>1</sup>Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)) (emphasis in original omitted).

jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses."<sup>2</sup>

The State charged appellant with trafficking in a controlled substance in violation of NRS 453.3385. A person violates NRS 453.3385 when, inter alia, he "is knowingly or intentionally in actual or constructive possession" of a schedule I controlled substance. Black's Law Dictionary defines actual and constructive possession as follows:

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it. A person, who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.<sup>3</sup>

In cases involving the possession of narcotics, this court has stated that "'possession may be imputed when the contraband is found in a location which is immediately and exclusively accessible to the accused and subject to [his] dominion and control.'"<sup>4</sup> The two elements of possession, dominion/control and knowledge, may be shown "'by circumstantial evidence and reasonably drawn inferences.'"<sup>5</sup>

Our review of the record reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. The State presented sufficient circumstantial evidence from which the jury could reasonably infer that appellant had constructive possession of the

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<sup>2</sup>McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

<sup>3</sup>Black's Law Dictionary 1047 (5th ed. 1979).

<sup>4</sup>Sheriff v. Shade, 109 Nev. 826, 830, 858 P.2d 840, 842 (1993) (quoting Glispey v. Sheriff, 89 Nev. 221, 223, 510 P.2d 623, 624 (1973)).

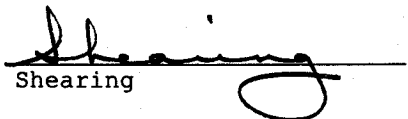
<sup>5</sup>Id. (quoting Fairman v. Warden, 83 Nev. 332, 336, 431 P.2d 660, 663 (1967)).

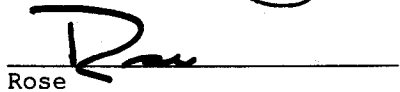
methamphetamine located in the vehicle and the motel room. In particular, we note that appellant was the only individual in the vehicle and that the methamphetamine was located in an area to which he had access. Additionally, appellant had the only key to the motel room, identifying information was found in the motel room, and appellant made statements during or prior to the search of the motel room indicating that he was aware of various drug paraphernalia located in the room. Appellant also had a ziplock baggie containing a whitish residue in his wallet.

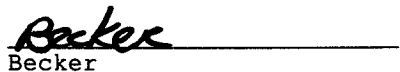
The jury could reasonably infer from the evidence presented that appellant had constructive possession of the methamphetamine. It is for the jury to determine the weight and credibility of the evidence, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.<sup>6</sup>

Having considered appellant's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

  
Shearing, J.

  
Rose, J.

  
Becker, J.

cc: Hon. Connie J. Steinheimer, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk

<sup>6</sup>See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).