

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. CR - 804 - 2006
	:
vs.	:
	:
JAMILE DRAYTON,	:
Defendant	:

OPINION IN SUPPORT OF ORDER OF DECEMBER 20, 2006,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court's Order of December 20, 2006, which imposed sentence following his November 9, 2006, conviction by a jury of possession of a controlled substance (marijuana), possession of a controlled substance (cocaine), possession with intent to deliver a controlled substance (cocaine), and two counts of possession of drug paraphernalia. In his Concise Statement of Matters Complained of on Appeal, Defendant contends the evidence was insufficient to sustain his conviction of the charges, and also that the verdict was against the weight of the evidence.¹

In addressing a challenge to the sufficiency of the evidence, the court is to view all of the evidence admitted at trial in the light most favorable to the Commonwealth as verdict winner, and the verdict will be upheld if there is sufficient evidence to enable the fact-finder to find every element of the crimes charged beyond a reasonable doubt. Commonwealth v. Adams, 882 A.2d 496 (Pa. Super. 2005). A "weight of the evidence" claim contends the verdict is a product of speculation or conjecture, and requires a new trial only when the verdict is so contrary to the evidence as to shock one's sense of justice. Commonwealth v. Dougherty, 679 A.2d 779 (Pa. Super. 1996).

In the instant case, the Court believes the evidence presented by the Commonwealth was more than sufficient to support the verdict and further, that the verdict was not at all contrary to the evidence, let alone shocking. The Commonwealth presented the testimony of an officer of the Penn College Police force, who testified to having stopped Defendant's vehicle after observing him driving the wrong way on a one-way street. While standing at the

1 Although Defendant does not challenge his conviction for possession of a controlled substance (cocaine), the Court sees no need to separate that charge from the others in its discussion of the evidence.

driver's door of the vehicle and speaking with Defendant, the officer observed what he believed to be marijuana seeds and stems on the front passenger seat. Defendant confirmed that such was indeed marijuana, and also indicated he had been smoking marijuana earlier in the evening. Defendant was removed from the vehicle and a cursory search of the vehicle revealed three small packs of marijuana² in a pouch at the rear of the driver's seat. Defendant was arrested and a search of his person incident to arrest revealed \$323 in cash in his right front pants pocket. The officer also indicated that a search warrant was obtained and a further search of the vehicle pursuant to that warrant revealed a pill bottle with nine tiny packets of cocaine and three cell phones. While the evidence showed that the vehicle was not owned by Defendant, he was the only occupant.

The Commonwealth also presented the testimony of an expert in the area of distribution and packaging of controlled substances, who opined that while the marijuana was most likely possessed for personal use,³ the cocaine was possessed with the intent to deliver.

Defendant presented no evidence.

As the elements of possession of both drugs, and possession of the packaging material of both drugs, were clearly made out, and as the circumstantial evidence of Defendant's intent to deliver the cocaine was clear and uncontradicted, the verdict was indeed supported by the evidence and was plainly not against the weight of such evidence.

Accordingly, the Court believes Defendant's appeal to be without merit, and respectfully suggests the Order of December 20, 2006, should be affirmed.

Dated: _____

Respectfully Submitted,

Dudley N. Anderson, Judge

cc: DA
PD

² Counsel stipulated to the admission and contents of a lab report which found the substances at issue to be marijuana and cocaine, respectively.

³ On this basis, the Court granted the defense's demurrer to a charge of possession of marijuana with intent to deliver.

Gary L. Weber, Esq.
Hon. Dudley Anderson