

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

vs.

BRIAN DEJARNETTE WILLIAMS,  
Defendant

:  
:  
:  
:  
:  
:

: No. CR-1367-2022

: Omnibus Pretrial Motion

**OPINION AND ORDER**

**Introduction**

Brian Dejarnette Williams (Defendant), is seeking through his omnibus pre-trial motion, a petition for a writ of habeas corpus on all charges. The Defendant argues that the Commonwealth has not met their *prima facie* burden for establishing the requisite element of possession that is contained within all four charges because there was no evidence presented at the preliminary hearing to show evidence of possession. The Commonwealth argues that the evidence presented is sufficient for meeting their burden of proving constructive possession of the drugs and firearm based upon a totality of the circumstances.

**Background and Testimony**

During the preliminary hearing Officer Tyson Haven (Havens) of the NEU testified that on October 11<sup>th</sup>, 2022, he obtained a search warrant for 1245 Freed Place in Williamsport, Pennsylvania for cocaine and marijuana. He then explained that Officer Caschera was the officer that executed the search warrant.

At the hearing, Officer Caschera (Cashera) of the NEU also testified. He stated that he executed the search warrant on 1245 Freed Place, and the search resulted in the seizure of both marijuana and cocaine in large amounts, and additionally a stolen firearm. Caschera explained specifically within the basement of the home, the NEU found marijuana in one-pound distribution

bags consistent with that of a drug-dealing operation, cocaine placed within a large distribution bag consistent with that of bulk-cocaine sales, and a stolen firearm.

Caschera further elaborated that the marijuana was found on the lowest or first shelf in the basement, packaged up in boxes, and the cocaine was found in a bucket on the second or third shelf, along with a digital scale and ecstasy tablets. The stolen firearm was found within a suitcase that was against the same wall as the shelves with the drugs. Additionally, Caschera explained that there was men's clothing located in the basement when they were conducting the search. During the search, the only non-members of law enforcement present were Deborah Dickerson (Dickerson) and her young children, as they are the residents of 1245 Freed Place. The Defendant was not present for the entirety of the search and no testimony was presented to establish when the last time he frequented the home was.

Dickerson testified that she is the only adult resident who lives at 1245 Freed Place and that she lives there with her two young children. In April of 2021, she had to go to prison but did not want to lose the home that her family had been residing in. In order to prevent this from happening she worked out a deal with a "friend." This friend was the Defendant. The arrangement resembled what seems to be a very one-sided deal in favor of Dickerson. The Defendant would pay Dickerson's rent in full from April 2021 all the way up until at least the time of the search warrant execution in October of 2022. In exchange for paying her rent in full, Dickerson testified that the Defendant received a key to the apartment for the sole purpose of storing things in the basement. This deal becomes particularly unusual in light of the fact that the record does not indicate that the Defendant was related to, or romantically involved with Dickerson.

Dickerson explained that the basement of her residence was a place that not many people had access to. In fact, the Defendant was the only individual other than herself that was able to store anything in the basement. She testified that the only thing she did in the basement was laundry and that the only thing she had stored down there was an old box of tools that had been there for years on

the shelf. Everything else down there was not hers, but was rather being stored by the Defendant. She had assumed all of the Defendant's things in the basements were just men's clothes and stuff of that nature, though she had not actually looked through his things, as she did not want to be intrusive. Furthermore, she explicitly stated that she did not own a suitcase and did not know of any firearm in the basement; hence, the suitcase where the gun was found was not hers.

Dickerson further explained that the Defendant would come and go from the basement as he pleased, stopping by often, though she was never paying much attention to him. During these trips to the basement, the Defendant had never brought anyone else. However, Dickerson did admit that she was not always home so there could have been times where the Defendant brought people that she did not know about. Dickerson also stated that she had bought marijuana from the Defendant in the past. Moreover, during the execution of the search warrant there was some marijuana found in Dickerson's bedroom.

### **Discussion**

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove a defendant's guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a *prima facie* case of guilt. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). A *prima facie* case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused likely committed the offense. *Id.* Furthermore, the evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001). To meet its burden, the Commonwealth may utilize the evidence presented at the preliminary hearing and may also submit additional proof. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016). "The Commonwealth may sustain its burden of proving every element of the crime...by means of wholly circumstantial evidence." *Commonwealth v. DiStefano*, 782 A.2d 574, 582 (Pa. Super. 2001); *see also*

*Commonwealth v. Jones*, 874 A.2d 108, 120 (Pa. Super. 2016). The weight and credibility of the evidence may not be determined and are not at issue in a pretrial *habeas* proceeding. *Commonwealth v. Wojdak*, 466 A.2d 991, 997 (Pa. 1983); *see also Commonwealth v. Kohlie*, 811 A.2d 1010, 1014 (Pa. Super. 2002). Moreover, “inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case.” *Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003).

Keeping this burden in mind, all four charges against the Defendant are being called into question by the habeas motion. All of the charges are being challenged on the requisite element of possession, as the Defendant argues that no type of possession, including constructive, has been shown by the Commonwealth for the stolen gun or the drugs in the basement. It is clear that there has not been actual possession shown here, so the issue of this case will hinge on the doctrine of constructive possession.

Constructive possession is a legal fiction, created for the purpose of dealing with the everyday realities of criminal law. *Commonwealth v. Aviles*, 615 A.2d 398, 401 (Pa. Super. 1992). Its principal purpose is “to expand the scope of possession statutes to encompass those cases where actual possession at the time of arrest cannot be shown, but where the inference that there has been actual possession is strong.” *Commonwealth v. Carroll*, 507 A.2d 819, 820 (Pa. 1986). It is basically allowing the law to encompass what one ‘must’ have possessed at one point or another given the surrounding circumstances, and allows the Commonwealth to prove the necessary element of possession through inference. *See id.* This inference is based upon the set of facts provided, and it must show that the contraband was more likely than not, in possession of the defendant. *Commonwealth v. Davis*, 280 A.2d 119, 121 (Pa. 1971). The court has defined constructive possession as “conscious dominion,” which has subsequently been defined to be “[1] the power to control the [illegal item] and [2] the intent to exercise control over the [illegal item].” *Commonwealth v.*

*Macolino*, 469 A.2d 132, 134 (Pa. 1983). Both of these elements may be inferentially proven by a totality of the circumstances. *Commonwealth v. Fortune*, 318 A.2d 327, 329 (Pa. 1974).

Pennsylvania courts have also held that when more than one person has equal access to where the illegal contraband or weapon is found, the defendant cannot be said to have either the power or the intent to control such weapon or contraband *per se*. *Commonwealth v. Heidler*, 741 A.2d 213, 216 (Pa. Super 1999); *see Commonwealth v. Keblitis*, 456 A.2d 149, 151 (Pa. 1983). “It is well settled that facts giving rise to mere ‘association,’ ‘suspicion,’ or ‘conjecture’ will not make out a case of constructive possession.” *Commonwealth v. Valette*, 613 A.2d 548, 551 (Pa. 1992) If this situation arises, there must be a showing of something more as to why it was specifically in the defendant’s power and intent to control, and not just from someone else who had access to the area. *See Valette*, 613 A.2d at 551. The concepts of “constructive possession” and “equal access” can be difficult and often depend on the facts and circumstances of the particular case. When there are multiple people that have access to a home, “equal access” typically extends the common areas of that home, such as the living room, dining room, and kitchen. But, when there is something such as a bedroom or office that is typically excluded from other members of the home that is not deemed to be of “equal access” to the other members of the home even though they would be physically capable of getting there. *See Macolino*, 469 A.2d at 135; *see also Commonwealth v. Gilchrist*, 386 A.2d 603, 605 (Pa. Super. 1978); *Commonwealth v. Hannan*, 331 A.2d 503, 505 (Pa. Super. 1974).

The court in *Mudrick* held that the defendant had constructive possession of marijuana because it found in an area of equal access paired with a bunch of the defendant’s belongings located throughout house. *Commonwealth v. Mudrick*, 507 A.2d 1212, 1214 (Pa. 1986). In *Mudrick*, the Defendant was located at a house in which law enforcement arrived to serve a warrant on the main resident of the home. *Id.* at 1212. When they arrived to serve the warrant, they observed a box of marijuana sitting in the living room. *Id.* at 1213. Additionally, they located a number of the defendant’s belongings around the house, including a dog of his. *Id.* The defendant presented evidence

that he was paying rent at a different residence. *Id.* The court held that the defendant was in constructive possession of the marijuana. *Id.* at 1214. They reasoned that even though the defendant wasn't permanently residing at the residence in which the marijuana was found, the display of his access to the residence combined with the plain view of the drugs in the living room was sufficient for a finding of constructive possession. *Id.*

However, in *Valette* the court held that there was no constructive possession of the drugs because the defendant did not have sufficient knowledge/access to the area in which the drugs were found. *Valette*, 613 A.2d at 551. In *Valette*, the defendant was present in a two-story apartment that was raided by law enforcement. *Id.* at 548. During the raid, extensive amounts of drugs and cash were found throughout the house. *Id.* The drugs were found up-stairs under a floorboard and the cash downstairs in a cabinet. However, no evidence was presented showing that the defendant had any ties to the home beyond him merely being there at the time of the raid. *Id.* at 551. No belongings in the house, no house key, and no testimony which would indicate that the defendant had any access and/or knowledge of the drugs and cash. *Id.* With this the Court held that the defendant was not in constructive possession of the drugs. *Id.* They reasoned that even though the defendant was physically present, the true indication of a finding of constructive possession is based upon their access and knowledge of where the illegal items were located. *Id.* There was no evidence presented by the Commonwealth to show that the defendant had access to or knew about where the drugs were located within the house and therefore he could not have been in constructive possession. *Id.*

The Court concludes that the Commonwealth has met their *prima facie* burden for proving the element of constructive possession because the totality of the circumstances show that the Defendant had both the power and intent to control the drugs and firearm.

In the present case, the basement area was of "equal access" to both the Defendant and the occupant of the home. This is because the evidence shows that both the Defendant and Dickerson had keys to the basement, both of them regularly accessed the basement, and both of them were not

restrictive of the others access. Given that the basement was of “equal access” to both the occupant of the home and the Defendant, the Commonwealth carries the burden of showing that the Defendant was in constructive possession of the drugs and weapons above and beyond the mere fact that he had access to the basement.

First, the Defendant had the power to control the drugs and firearm because he had unrestricted access to the basement of the house and that was where the drugs and firearm in question were found. Dickerson testified that she had worked out an arrangement with the Defendant in which he could access the basement of the house if he paid the rent for the place and helped her keep it during her time of incarceration in 2021. The drugs were found on shelves in the basement, and the firearm was found in a suitcase in the basement. Dickerson testified that she had no suitcase, and that the only thing she stored in the basement was a box of tools on the shelf. From these facts, the Court infers that the Defendant must have had them power to control these items because they were not Dickerson’s, and those were the only two adults which had access to the basement. Hence, by process of elimination they had to have been his items.

Secondly, the Defendant also had the intent to control the drugs and firearm, because through his alleged actions, the totality of the circumstances show that this was his use for the basement. Testimony from Dickerson shows that the Defendant set up an arrangement with Dickerson in which he had been paying for her rent since April of 2021 so long as he could store things in Dickerson’s basement. The record indicates that this was an unusual relationship, as the Defendant was neither romantically involved with Dickerson, nor were the children living in the house related to the Defendant, yet the Defendant would pay the rent in its entirety. This was the deal, so long as he could come and go from the basement as he pleased. Additionally, the drugs and firearm were both found in locations which Dickerson testified she does not have things. This is evidenced by the testimony of Dickerson explaining that that she owned no suitcase (where the gun was found) and that everything in the basement but the box of tools was the Defendant’s (box of marijuana and bucket of cocaine). This

evidence combined with Dickerson's testimony that she has bought marijuana from the Defendant in the past leads the Court to make the reasonable inference that the Defendant must have had the intent to control the drugs and firearm. Given that the Court must view the evidence and the reasonable inferences that can be drawn from the evidence in the light most favorable to the Commonwealth, this is the most rationale inference.

In coming to this decision, the Courts ruling will be in accordance with the holdings of *Mudrick* and *Valette*. Though the facts here are quite foreign to any precedential cases, the pertinent issue remains the same in the both of the following, hence they are illustrative as to why the Court is coming to its conclusion.

The present case is analogous to *Mudrick* because in both cases the evidence shows personal items in very close proximity to the illegal items. The defendant in *Mudrick* had numerous personal items located throughout the home, including in the living room where the marijuana was found in plain sight. Similarly, the Defendant here had a key to the house, and had belongings stored in the basement where the drugs were found. Furthermore, Dickerson testified that the items stored in the basement were not hers. From this the Court draws the inference that they must have been the Defendant's. In the present case, the Commonwealth's argument is even stronger than in *Mudrick*, as the illegal items were found within the Defendant's personal things.

The present case can be distinguished from *Valette*. This is because in *Valette*, there was no evidence which tied the defendant to the home beyond his physical presence at the time of the raid. In comparison, although the Defendant in this case was not physically present during the raid, the testimony of Dickerson directly ties the Defendant to the area in which the illegal items were found. Furthermore, by the very nature of the Defendant's agreement with Dickerson, his sole purpose was to be able to store belongings in the basement, which ties him directly to where the illegal items were found. With ample circumstantial evidence to support the Defendant's intent for frequently accessing



the basement, the Court holds that that the Defendant was in constructive possession of the marijuana, cocaine, and firearm within the basement.

The Defendant argues that he was not present at the home during the time in which the drugs and firearm were found by law enforcement, and therefore, he should not be found in constructive possession of the drugs and firearm. This fact, however, is not dispositive. This Court may look to all evidence presented to see what was in the Defendant's constructive possession given the totality of the circumstances. So, while physical presence in the home could serve as further evidence of possession, is it not required by law for a finding of constructive possession. Given the arrangement the Defendant made with Dickerson, this Court does not find it unusual that he was not at the home during the time of confiscation, as he did not live there. In fact, the Court finds this to be the exact reason in which the Defendant made such an unusual proposal to Dickerson in the first place.

Therefore, when looking at the evidence in a light most favorable to the Commonwealth, the Court concludes that it has met its *prima facie* burden for proving the element of constructive possession, as the totality of the circumstances show that the Defendant had both the power and intent to control the drugs and firearm.

### **ORDER**

**AND NOW**, this 13<sup>th</sup> day of July 2023, the Court DENIES the Defendant's petition for a writ of habeas corpus.

By The Court,

---

Nancy L. Butts, President Judge