Juvenile Law Case Summaries

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Evidence was sufficient to prove possession of cocaine in the car by the driver [In re. J.P.W.] (01-2-16).

On April 18, 2001, the San Antonio Court of Appeals held that there was sufficient evidence to prove the unlicensed driver of his father's car was in possession of cocaine found in plain view in the pocket compartment in the driver's side door.

¶ 01-2-16. In the Matter of J.P.W., UNPUBLISHED, No. 04-00-00430-CV, 2001 WL 388023, 2001 Tex.App.Lexis ___ (Tex.App.—San Antonio 4/18/01)[Texas Juvenile Law (5th Edition 2000)].

Facts: J.P.W. was adjudicated before a jury for possession of cocaine in an amount of less than one gram. The jury found him guilty of engaging in delinquent conduct. The judge placed the appellant on juvenile probation for one year. J.P.W. appeals claiming the evidence was legally and factually insufficient to prove he was in possession of cocaine.

Fifteen year old J.P.W. was driving his father's car when it stalled in an intersection. His twelve year old step-sister, his girlfriend, and a male friend were also in the car. San Antonio Police Officer Gonzales testified that shortly before midnight he noticed J.P.W.'s stalled car in the intersection. It appeared to him that the driver was having difficulty with the standard transmission. In the interest of avoiding an accident, Gonzales pulled into the intersection with his lights on. J.P.W. then put the car into gear and pulled into a nearby parking lot. Gonzales asked J.P.W. for his driver's license and was told he did not have one. Gonzales then placed him in handcuffs and put him in the backseat of his patrol car. He then asked the three passengers to exit the car. Officer Alvarado arrived to assist Gonzales and the two searched the inside of the car. Alvarado found a baggy in the pocket compartment of the driver side door. This baggy was later verified to contain cocaine.

There were a number of disagreements about the facts of that night. Officer Gonzales testified that J.P.W. told him at the scene that the cocaine was his father's. J.P.W. testified at trial that he told the officer he did not know what or whose it was. Officer Gonzales testified that when he called J.P.W.'s father, he told him J.P.W. had told him that the cocaine was his father's. J.P.W.'s father testified at trial that the officer did not inform him of this statement on the phone that night. Officer Michelle Stewart testified that J.P.W.'s girlfriend, Vivian Breedlove, told her that it was not hers, it was theirs, and pointed to J.P.W. in the back of the patrol car. At trial, Breedlove testified she did not say that or point to J.P.W.

J.P.W.'s story was that his father had given the keys to his friend Chris Paretti, who did have a driver's license, to pick up his sister from the skating rink. Chris had been the driver up until the car stalled. J.P.W. then took over driving because his father had shown him how to shift gears. He intended just to get the car across the intersection and then to pull over and let Chris drive again. However, Officer Gonzales testified that he had seen the car from before the trouble in the intersection and there was no physical change in drivers. At the time of the stop, Chris was in the back seat behind J.P.W. It was argued that the two would have had to get out of the car to switch drivers and Gonzales testified this did not happen.

After a jury found J.P.W. guilty of engaging in delinquent conduct, he was placed on probation for one year. J.P.W. now appeals.

Held: Affirmed.

Opinion Text: SUFFICIENCY OF THE EVIDENCE

In his sole issue J.P.W. claims there is insufficient evidence to establish that he was in possession of cocaine. The question is whether a rational juror could find beyond a reasonable doubt that J .P.W. was in possession of the cocaine found in the driver's side pocket. J.P.W. contends he was not the owner of the car. He argues he had only driven it a few minutes before the stop. He argues he did not know about the cocaine and therefore, could not knowingly and intentionally possess it.

Standard of Review

In reviewing the legal sufficiency of the evidence, we examine the evidence in the light most favorable to the judgment and determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. See Jackson v. Virginia, 443 U.S. 307, 318-19 (1979). In a factual sufficiency review, we must view all the evidence without the prism of "in the light most favorable to the prosecution" and set aside the verdict only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Clewis v. State, 922 S.W.2d 126, 129 (Tex.Crim.App.1996). A factual sufficiency review must be appropriately deferential. See Jones v.. State, 944 S.W.2d 642, 648 (Tex.Crim.App.1996). The appellate court's evaluation cannot substantially intrude upon the role of the trier of fact as the sole judge of the weight and credibility of witness testimony. See id. A determination that the evidence is factually insufficient is proper only when the verdict is "manifestly unjust," "shocks the conscience," or "clearly demonstrates bias." Id.

Possession

A person commits an offense if that person knowingly or intentionally manufactures, delivers, or possesses cocaine. See Tex.Health & Safety Code Ann. § 481.116(a) (Vernon Supp.2000). The State has the burden to prove two things when an accused is charged with unlawful possession of cocaine. The State must first show that the defendant exercised actual care, custody, control, or management over the cocaine. See McGoldrick v. State, 682 S.W.2d 573, 578 (Tex.Crim.App.1985); Grant v. State, 989 S.W.2d 428, 433 (Tex.App.--Houston [14th Dist.] 1999, no pet.). The State must then show that the accused knew the object he possessed was cocaine. See Grant, 989 S.W.2d at 433. The knowledge element of the crime may be inferred without an admission by the accused because it is subjective. See McGoldrick, 682 S.W.2d at 578; Grant, 989 S.W.2d at 433. Possession may be proved by circumstantial evidence. See Williams v. State, 859 S.W.2d 99, 101 (Tex.App.--Houston [1st Dist.] 1993, pet. ref'd).

The evidence must positively connect the defendant to the offense, so that one may infer that the defendant was aware of the contraband and exercised control over it. See id. This connection may be established by facts and circumstances that indicate the accused's knowledge and control. See Grant, 989 S.W.2d at 433. This would include whether the contraband was in plain view, and whether it was in close proximity to the accused. See id. It is not necessary that all facts point directly or indirectly to the defendant's guilt. When the combined and cumulative effect of all the incriminating circumstances point to the defendant's guilt, the evidence is legally sufficient. See Russell v. State, 665 S.W.2d 771, 776 (Tex.Crim.App.1983). The evidence is not insufficient to support his conviction just because the defendant presents a different version of the events. See Sosa v. State, 845 S.W.2d 479, 483 (Tex.App.--Houston [1st Dist.] 1993, pet. ref'd).

In the instant case, J.P.W. was established as the driver at the time of the stop. The baggy with the cocaine was in the driver's side pocket which was in plain view of J.P.W. The cocaine was located in very close proximity to him as the driver. There were conflicting stories about who was the driver and what was said about the cocaine. However, a rational juror presented with all of the evidence could choose to believe the testimony offered by the police officers and find beyond a reasonable doubt that J.P.W. was in possession of cocaine. This finding is not manifestly unjust, or shocking to the conscience and does not demonstrate bias.

Therefore, we overrule J.P.W.'s sole issue and affirm the disposition of the trial court.
