

Circuit Court for Baltimore County
Case No. 03-K-18-000240

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 551

September Term, 2020

LEROY ANTONIO AUSTIN

v.

STATE OF MARYLAND

Berger,
Shaw Geter,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: January 10, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

A jury, sitting in the Circuit Court for Baltimore County, found the appellant, Leroy Antonio Austin, guilty of volume possession of cocaine, possession of cocaine with the intent to distribute, possession of cocaine,¹ and possession of heroin. The court sentenced Austin to eight years of incarceration, with all but five years suspended.² Austin noted a timely appeal and argues that the evidence was insufficient to find that he possessed any controlled dangerous substances. Austin presents one question for our review:

Is the evidence sufficient to establish that Mr. Austin possessed controlled dangerous substances?

For the reasons to be discussed, we shall affirm the judgment.

BACKGROUND

Detective Gregory Utz testified that on December 20, 2017, he was assigned to serve a search warrant at 4 Cameron Court, Apartment I. As Detective Utz conducted pre-raid surveillance, he observed a man identified as Percy Walker -- one of the subjects of the investigation -- exit the apartment building around 7:30 a.m. Walker retrieved a white bag from a parked vehicle, took the bag into the apartment building, returned to the vehicle

¹ The cocaine possession count merged into the possession of cocaine with intent to distribute count for sentencing purposes.

² A conviction for volume possession of cocaine under Md. Code, Crim. Law § 5-612(a) requires a mandatory minimum sentence of five years of active incarceration under Crim. Law § 5-612(c)(1).

about five minutes later (without the white bag), and left.³ After Walker had been stopped at a different location, Detective Utz accompanied a tactical team into the apartment. In the apartment, police found a bag containing several bags of cocaine wrapped in a red shirt in the back bedroom. Also in that room was a pair of pants with a bag of cocaine inside. In the front bedroom closet, there were drugs within a jacket and “bagged up white product . . . believed to be cocaine” wrapped up in a shirt in a laundry basket. There was a bag of drugs that was lying in plain view on a pair of pants on the floor, which was visible

³ When Austin moved for a new trial, he argued in part that the evidence showed that Walker had brought a white bag into the apartment containing three bags of cocaine, which would be attributable to Walker and not Austin. The circuit court addressed that argument in its written opinion:

The evidence at trial was clear that cocaine was being processed at the 4 Cameron Court address The evidence at trial was that 894.36 grams of cocaine were found in the 4 Cameron Court apartment. At the [motion for new trial], counsel for Mr. Austin referred to State’s Exhibit 2x from the trial, which was a white store bag with three baggies of white powder which were shown to be cocaine. It was unclear how much these baggies weighed and there was no testimony on this issue. However, State’s Exhibit 12 was a chemistry report that was admitted without objection and noted 12 items. Item 8 was “three (3) plastic bags containing white substance[.]” These baggies weighed 307.90 grams. The total amount of cocaine at 4 Cameron Court was 894.36 grams.

* * *

The [circuit court] is not finding that the items depicted on State’s Exhibit 2x were delivered to 4 Cameron Court by Mr. Walker on the morning of his arrest. However, as noted above, even without what would appear to be the cocaine noted in the report from State’s Exhibit 2x, there is enough cocaine to satisfy [Crim. Law § 5-612, which prohibits possession of 448 grams or more of cocaine].

to the police team that performed a protective sweep upon initial entry. A digital scale and sandwich bags were found within a kitchen cabinet. A photo album containing pictures of Austin was recovered from the living room closet. Police recovered other items within the apartment, including the following: gel caps, quinine (a cutting agent), a bowl, a sifter, cups, a spoon, and fentanyl spray (an additive or cutting agent).

Police recovered mail and documents in the apartment addressed to seven people, including Austin and Walker. Police found: (1) a document in Shawn Williams' name on a rear bedroom shelf; (2) a document in Shanae Johnson's name on the bathroom sink; (3) a document in Percy Walker's name on the back bedroom closet shelf (where drugs were discovered); (4) two documents in Marquis Simmons' name in the front bedroom (where the police had discovered a jacket containing suspected cocaine); (5) a document in David Lassen's name; (6) a document in Chase Patterson's name, and (7) a document addressed to Austin on the living room coffee table. The following items contained the 4 Cameron Court, Apartment I address: the cable bill addressed to Johnson, the document in Patterson's name, and the document in Lassen's name. The document in Austin's name was dated July 8, 2015.

Detective Jason Metz testified that he began the investigation in April 2017. Detective Metz learned through Motor Vehicle Administration ("MVA") records that Austin had an address in Baltimore City and operated a Ford truck. Detective Metz learned that Shania Johnson was the leaseholder of 4 Cameron Court, Apartment I. Detective Metz obtained lease information for 11550 Crossroads Circle, Apartment 403, and discovered

that it was leased to a Candace Bowser. Detective Metz testified that Bowser and Johnson had shared an address at one point, and both had been “arrested together in 2014 in a shoplifting incident in Baltimore County.” Detective Metz had observed Austin’s vehicle parked in the private garage of the Crossroads Circle apartment complex on October 23 and October 26, 2017. Employees in the management office of the Crossroads Circle apartment complex told the detective that Austin had inquired several times about a package.

Detective Metz obtained an order permitting GPS surveillance on Austin’s vehicle. The GPS data showed that from November 20-23, 2017, Austin made several short stops to the Cameron Court location each day. The vehicles belonging to Austin and Walker were once seen at the Cameron Court address at the same time. Around 7:30 a.m. on December 7, 2017, Detective Metz observed a Ford Explorer belonging to Austin parked at the Cameron Court address. Also on that day, there was another vehicle parked there. Detective Metz testified that he ran the registration of that other vehicle through different databases and “was able to identify a male subject and a check of that subject revealed an extensive history with drugs.” On December 19, 2017, Detective Metz observed Austin at the Cameron Court address around 11:45 a.m. Austin, who was carrying a bag, entered his vehicle, left the area, and then returned around 3:30 p.m.

Detective Metz admitted that although he saw Austin enter and exit 4 Cameron Court, he never saw Austin enter or exit the specific apartment unit at issue – Apartment I. Detective Metz also acknowledged that he once saw a person other than Austin operate the

Ford truck (at a time when Detective Metz knew that Austin was not in the country). At that time, Detective Metz saw an unidentified person enter that vehicle at the Cameron Court address. Detective Metz acknowledged that the GPS notifications were to the general vicinity of 4 Cameron Court, and they could only show that Austin's vehicle was in the general area of that block. The GPS records revealed that Austin's vehicle went to other addresses multiple times a day in the same time period.

On December 20, 2017, Detective Metz arrested Austin and recovered a cell phone, keys, and \$890 from his person, as well as three phones from his vehicle. Detective Metz executed a search warrant at 11550 Crossroads Circle, Apartment 403. There, police found a residency paper for Austin, \$4,500 under clothes in a hamper, and another cell phone. No drugs were recovered from the Crossroads Circle apartment.

Police seized the doorknob and deadbolt lock to the Cameron Court apartment. Keys taken from Austin when he was arrested were found to operate those locks. Keys obtained from Walker were also found to operate those locks.

Detective Michael Romano testified that he was involved in the surveillance phase of the investigation, and that he observed Austin at the Cameron Court address on November 21, 2017. Detective Romano observed Austin's vehicle parked in the parking lot. Austin emerged from the building, carrying a small bag, entered the vehicle, and left the area.

The court qualified Detective Romano as an expert in drug trafficking organizations, and he testified that 4 Cameron Court, Apartment I, was being used as a place to store

narcotics, otherwise known as a stash house: “Mr. Austin had a, an apartment that was maintained on 4 Cameron Court, Apartment I, that was utilized to store narcotics, as well as, you know, paraphernalia, packaging materials. Himself and another individual were seen coming and going from the building and identified by Detective Metz as working together, both coming and going from the apartment.” The detective further testified that “the amount of drugs that were found within that apartment are consistent with possession with the intent to distribute cocaine.”

The State’s expert in forensic chemistry, Jasmine Eaton, testified that the total weight of the cocaine that police recovered from the Cameron Court apartment amounted to 894.36 grams. Police recovered that amount from fifteen bags of cocaine, according to Eaton’s report. Eaton’s testimony and report show that another bag recovered from the apartment contained both heroin and fentanyl, with a total weight of 2.56 grams.

After the State had rested, Austin moved for judgment of acquittal and argued that there was insufficient evidence to establish that Austin had dominion and control over the drugs found in the Cameron Court apartment. Austin noted that there were no drugs recovered from his person, and he claimed that there was no evidence that he was in the Cameron Court apartment. Austin also referenced Walker’s connections with that apartment.

The court noted that the Cameron Court apartment was a stash house, Austin had keys to it, there was a photo album containing pictures of him found there, and he went there for short periods of time on several occasions. The court found that there was

sufficient evidence to permit the jury to consider the case. Nevertheless, the court granted the motion as to an illegal possession of ammunition count.

The jury convicted Austin of the remaining counts. Austin then filed a written motion, which challenged the weight of the State’s evidence. The court denied that motion after a hearing. We supply additional facts as necessary below.

DISCUSSION

Standard of Review

When reviewing the sufficiency of the evidence supporting a criminal conviction, we ask “‘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.’” *McClurkin v. State*, 222 Md. App. 461, 486 (2015) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). “In applying that standard, we give ‘due regard to the [fact-finder’s] findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.’” *McClurkin*, 222 Md. App. at 486 (quoting *Harrison v. State*, 382 Md. 477, 488 (2004)). We will not “retry the case” or “re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence.” *Smith v. State*, 415 Md. 174, 185 (2010).

I. The evidence was sufficient to persuade a rational trier of fact that Austin had dominion and control over the drugs in the Cameron Court apartment.

Austin’s argument on appeal is that the evidence was insufficient to find that he possessed any of the controlled dangerous substances found within the Cameron Court apartment. Possession, of course, is an element of each offense at issue here. Md. Code,

Crim. Law § 5-101(v) defines “possess” as “to exercise actual or constructive dominion or control over a thing by one or more persons.” Possession thus may be actual or constructive; it may be exclusive or joint. *Belote v. State*, 199 Md. App. 46, 55 (2011). Possession in this context requires that the defendant knew “of both the presence and the general character or illicit nature of the substance.” *Handy v. State*, 175 Md. App. 538, 563 (2007) (quoting *Dawkins v. State*, 313 Md. 638, 651 (1988)). To support a finding of possession, the “evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited” item and that the accused “exercised some restraining or direct influence over it.” *State v. Suddith*, 379 Md. 425, 432 (2004) (citations omitted).

The Court of Appeals has articulated four factors to determine whether the evidence is sufficient to support a finding of possession:

[1] the defendant’s proximity to the drugs, [2] whether the drugs were in plain view of and/or accessible to the defendant, [3] whether there was indicia of mutual use and enjoyment of the drugs, and [4] whether the defendant has an ownership or possessory interest in the location where the police discovered the drugs. None of these factors are, in and of themselves, conclusive evidence of possession.

State v. Gutierrez, 446 Md. 221, 233 (2016) (quoting *Smith*, 415 Md. at 198). No one factor is dispositive and, ultimately, “possession is determined by examining the facts and circumstances of each case.” *Smith*, 415 Md. at 198.

Applying these factors, the evidence and all rational inferences that arise from the evidence, when viewed in the light most favorable to the State, permit a rational trier of

fact to make these three key findings. First, the Cameron Court apartment was a stash house filled with drugs, some of which were in plain view, and most of the paraphernalia was in the kitchen -- a common area of the apartment. Second, Austin had a possessory interest in the apartment and access to the drugs inside. Third, the evidence showed that the apartment was used as part of a drug distribution operation, in which Austin played a role.⁴ The evidence was sufficient to establish that Austin had constructive possession of the drugs within the Cameron Court apartment.

A. The Cameron Court apartment was a stash house filled with drugs, some of which were in plain view, and most of the paraphernalia was in the kitchen, which was a common area of the apartment.

The police found drugs and paraphernalia throughout the Cameron Court apartment. Detective Utz described the apartment as having two bedrooms -- a “front bedroom” and a “back bedroom” (which was also called the “rear bedroom” or “master bedroom”) -- two bathrooms, a kitchen area, a laundry room area, a living room area, and a dining room area that was “almost part of the living room area.”

The police recovered the following evidence from the kitchen:

⁴ To be sure, we recognize that the proximity factor does not favor the State. Austin was not arrested near the Cameron Court apartment. But that factor is not dispositive. *See Spell v. State*, 239 Md. App. 495, 514 (2018) (although the appellant was found across the street from a building where drugs were located in a utility room, the evidence was sufficient to find that the appellant exercised dominion and control over those drugs); *Kamara v. State*, 205 Md. App. 607, 634 (2012) (“When contraband is found in a dwelling shared by a defendant and one or more other persons, a finder of fact may properly infer that the defendant is in possession of the contraband (not necessarily exclusive possession) from evidence that the contraband was found in proximity to personal effects of the defendant in areas of the dwelling, such as a bedroom or closet, to which other evidence indicates the defendant has a particular relationship.”) (quoting *Com. v. Farnsworth*, 76 Mass. App. Ct. 87, 99, 920 N.E.2d 45, 55 (2010)).

- A scale and cell phone in a drawer.
- A digital scale in a cabinet.
- Sandwich bags in a cabinet.
- Ammunition in a cabinet.
- Six boxes of baking soda (a cutting agent) in a cabinet.
- Sifters, cups, and a spoon (used for mixing and packaging drugs).
- A bowl and silverware with drug residue in a basin.
- Gel caps.

The police recovered the following evidence from the back bedroom:

- A bag of drugs that was lying in plain view on a pair of pants on the floor, which was visible to the police team that performed a protective sweep upon initial entry.
- A bag of cocaine from a pair of pants.
- A white bag containing other bags of suspected cocaine wrapped in a red shirt in a laundry basket.
- A bag with residue.
- A shoebox containing a spoon with possible cocaine residue on it.

The police recovered the following evidence from the front bedroom:

- Cocaine in a jacket in the closet.
- Ammunition in the closet.

The police also seized quinine (a cutting agent) and fentanyl spray (an additive or cutting agent) from the apartment.

Ultimately, police recovered fifteen bags of cocaine from the apartment, amounting to 894.36 grams of cocaine. One plastic bag recovered from the apartment contained both heroin and fentanyl, with a total weight of 2.56 grams.

Detective Michael Romano testified as the State’s expert on drug trafficking organizations. Detective Romano stated that the Cameron Court apartment was being used as a stash house. He based his opinion mainly on the large amount of narcotics and packaging materials found “throughout the apartment,” and a lack of evidence of habitation. Detective Romano stated that it was “apparent that people were not living in the apartment[.]” Despite the volume of drugs and the obvious drug trafficking operation in the apartment, police did not find a great deal of cash in the apartment. Detective Romano explained that it is common for drug traffickers who use a stash house to keep their money separate from the drugs. Police recovered nearly a kilogram of cocaine from the apartment (894.36 grams). Detective Romano estimated the value of a kilogram of cocaine in Baltimore to be about \$40,000.

Austin argues that Detective Romano’s opinion -- that the Cameron Court apartment was a stash house -- had “no basis[.]” Austin notes that Detective Romano acknowledged during cross-examination that there was a standard mattress in a bedroom. Detective Romano recognized that there were hygiene products in the bathroom, such as toothpaste, toothbrushes, body wash, a cup, and a bath towel. But there was an overall lack of evidence of habitation, which supported the detective’s expert opinion. Indeed, there was a large quantity of drugs and paraphernalia compared to a relative lack of furniture. The kitchen,

for example, contained a box of ammunition. The police also recovered mail and other documents strewn about the apartment addressed to seven people, which suggests that the apartment was not used as someone’s residence.

More to the point, once admitted, whether to credit the detective’s opinion was for the jury to decide. *See K.B. v. D.B.*, 245 Md. App. 647, 681 (2020) (“It is the province of the fact-finder to determine which expert testimony, if any, to accept, and which expert testimony to reject.”). Here, we are limited to viewing the evidence and all inferences that arise from the evidence in the light most favorable to the State. *Abbott v. State*, 190 Md. App. 595, 616 (2010). *See also McCoy v. State*, 118 Md. App. 535, 538 (1997) (“On the issue of legal sufficiency, an appellate court is concerned only with the burden of production. Our inquiry is that of whether the testimony of [a witness], *if believed and if given maximum weight*, would have established the necessary elements of the crime.”). The jury could adopt Detective Romano’s opinion that the Cameron Court apartment was a stash house. A rational factfinder could infer that Austin, who made frequent, short stops at the stash house and had access to it, was a part of the drug trafficking operation occurring there.

B. Austin had a possessory interest in the Cameron Court apartment and access to the drugs inside.

The evidence was sufficient for a rational factfinder to find that Austin had a possessory interest in the Cameron Court apartment. Black’s Law Dictionary defines “possessory interest” as “[t]he present right to control property, including the right to exclude others, by a person who is not necessarily the owner.” *Possessory Interest*, Black’s

Law Dictionary (11th ed. 2019). With the key, Austin could access the apartment whenever he liked. To be sure, there was no evidence that Austin owned, leased, or slept at the Cameron Court apartment. But that dovetails with three key points in Detective Romano’s testimony. First, the apartment was being used as a stash house for a drug trafficking operation. Second, it is common for multiple people in a drug trafficking organization to have access to a stash house. Third, it is also common for drug traffickers to put property in someone else’s name to distance themselves from the contraband contained there.

The evidence established that the Cameron Court apartment was in the joint possession of multiple people as part of a drug trafficking enterprise. Although the lease was in Shania Johnson’s name, Detective Metz testified that Johnson’s MVA address was not 4 Cameron Court. The police also discovered mail and documents in the apartment addressed to seven people (including Austin, Johnson, and Walker). Both Austin and Walker were arrested while in possession of keys to the apartment. Thus, despite that only one bed was found in the apartment, multiple individuals had an established connection to the apartment. That evidence implies joint possession of the apartment as a stash house, instead of exclusive control of the apartment by one individual. Drug traffickers are unlikely to let an innocent person into a stash house filled with drugs and paraphernalia, much less provide that person with a key. *See Maryland v. Pringle*, 540 U.S. 366, 373 (2003) (an inference of a common enterprise is reasonable when “[t]he quantity of drugs and cash in the car indicated the likelihood of drug dealing, an enterprise to which a dealer

would be unlikely to admit an innocent person with the potential to furnish evidence against him.”).

Austin argues that although he had a key to the Cameron Court apartment, “there was no evidence that [he] was ever actually within that *unit*, and the police only observed him enter (and in the vicinity of) the *building* containing that unit.” Indeed, there is a possibility that Austin was visiting one of the other nine apartment units in the same building, but “[i]t is not necessary that the circumstantial evidence exclude every possibility of the defendant’s innocence, or produce an absolute certainty in the minds of the jurors.” *Hebron v. State*, 331 Md. 219, 227 (1993) (citation and quotation marks omitted). *See also* MPJI-Cr 2:02 (“the State is not required to prove guilt beyond all possible doubt or to a mathematical certainty.”). Austin no doubt had a connection to 4 Cameron Court, Apartment I, because he had a key to unlock the apartment door, his mail was found inside, and there was a photo album containing pictures of him found inside as well. A rational factfinder could infer that, when Austin was inside 4 Cameron Court, he was visiting the apartment unit that he had access to, which contained his mail and photos of him. *See also Ross v. State*, 232 Md. App. 72, 98 (2017) (“Even in a case resting solely on circumstantial evidence, and resting moreover on a single strand of circumstantial evidence, if two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the fact-finding jury and not that of a court assessing the legal

sufficiency of the evidence.”). The evidence was sufficient to permit a rational factfinder to find that Austin had a possessory interest in 4 Cameron Court, Apartment I.

C. The evidence showed that the Cameron Court apartment was used as part of a drug distribution operation, in which Austin played a role.

The Court of Appeals has held that “[w]ith respect to the concept of ‘mutual use and enjoyment,’ not only is actual use contemplated but also whether individuals participated in drug distribution.” *Gutierrez*, 446 Md. at 237 (citing *Cook v. State*, 84 Md. App. 122, 134-35 (1990) (mutual use and enjoyment could be inferred when evidence showed that “the house was being used as a base for a drug operation in which the appellants played a role”)). For the following six reasons, the circumstances here show that Austin was involved in a drug enterprise at the Cameron Court apartment.

First, as explained above, the Cameron Court apartment was a stash house. It was reasonable to infer that the purpose of Austin’s short, repeated visits there was to deliver, pick up, or prepare drugs for sale.

Second, police seized three cell phones from Austin’s vehicle and one from his person. *See Santos v. State*, 230 Md. App. 487, 500 (2016) (“the presence of multiple . . . cell phones” is one of the “hallmarks of drug trafficking”). Third, police found that Austin had made large cash bank deposits, including one in the amount of \$9,000.

Fourth, police executed a search warrant on 11550 Crossroads Circle, Apartment 403 where Detective Metz had observed Austin’s vehicle parked in the private garage. Inside that apartment, police found \$4,500 in cash hidden in a laundry hamper and Austin’s “residency paper.” The prosecutor noted “the consistency and hiding places here, where a

bulk of the drugs [at Cameron Court] was found in the laundry hamper and also a bulk of the money at Crossroads [Circle] was found in the laundry hamper, about \$4,500.”

Fifth, the amount of money and drugs recovered support an inference that Austin was holding the proceeds from the sale of cocaine. As we explained, police recovered 894.36 grams of cocaine from the Cameron Court apartment, which was just shy of a full kilogram. Detective Romano stated that it was possible that the value of the difference between that amount of cocaine and a kilogram of cocaine was roughly equivalent to the money seized from Austin’s person and the Crossroads Circle apartment -- about \$5,000. Taken collectively, that information supported the inference that Austin was holding the proceeds from the sale of about 106 grams of cocaine.

Lastly, Austin’s association with multiple residences aligns with Detective Romano’s testimony about drug traffickers’ behavior. Detective Romano explained that it is common for drug traffickers to use multiple locations to separate themselves from the drug activity and hinder any police investigation. He explained that a trafficker might store drugs in one location, keep cash in another location, use their parents’ address to receive important mail (e.g., from the MVA), and sleep at a different location leased in someone else’s name. Austin was no doubt connected to the Cameron Court apartment where the drugs were stored and the Crossroads apartment where the cash was found. Police also discovered that Austin’s address as registered with the MVA was a third address, where his mother lived.

II. *Taylor, Moye, and Leach* are distinguishable.

Much of Austin’s brief relies on *Taylor v. State*, 346 Md. 452 (1997), *Moye v. State*, 369 Md. 2 (2002), and *State v. Leach*, 296 Md. 591 (1983) in support of his argument that the evidence was insufficient to prove possession. In our view, these cases are distinguishable from the case at bar.

In *Taylor*, police entered and searched a Days Inn Motel room in Ocean City occupied by Taylor and four other people. 346 Md. at 454-55. Officers searched the room and discovered marijuana inside two bags and rolling papers in a wallet belonging to another person. *Id.* at 455. The trial court convicted Taylor of possession of marijuana. *Id.* at 456-57. The Court of Appeals reversed, explaining that the evidence, viewed in the light most favorable to the State, “established only that Taylor was present in a room where marijuana had been smoked recently, that he was aware that it had been smoked, and that Taylor was in proximity to contraband that was concealed in a container belonging to another.” *Id.* at 459. Taylor “was not in exclusive possession of the premises,” and “the contraband was secreted in a hidden place not otherwise shown to be within [Taylor’s] control.” *Id.*

Unlike in *Taylor*, the evidence here established that the Cameron Court apartment was a stash house filled with drugs and paraphernalia, and it was in the joint possession of multiple people as part of a drug trafficking enterprise. The drugs were scattered around the Cameron Court apartment, and some were in plain view.

In *Moye*, the police approached a home, in response to a call about a man cutting people with a knife. 369 Md. at 5-6. That home belonged to a couple, the Bullocks, who rented their basement to a man named Benson. *Id.* at 5. As police approached the property, they encountered the Bullocks and Benson, all of whom had emerged from the house. *Id.* at 6. The officers observed Moye briefly on the first floor and again in the basement. *Id.* Moye eventually exited through a basement door and he was arrested. *Id.* In the basement, police discovered marijuana and cocaine in partially open drawers, as well as in the ceiling. *Id.* at 7. Moye was later convicted of various charges relating to that contraband. *Id.* at 9.

The Court of Appeals reversed Moye’s convictions because “Moye did not have any ownership or possessory right in the premises where the drugs and paraphernalia were found.” Indeed, “Benson was the sole lessee of the Bullocks’s basement.” *Id.* at 5, n.2. By contrast, “[t]here was little evidence to establish that Moye ‘lived’ in the Bullock household.” *Id.* And “[t]he only testimony at trial which suggested that Moye may have been residing” in the house came from Joseph Bullock, “who testified that at the time of the incident, Moye was ‘living’ in the house[.]” *Id.* at 5, n.2, 18, n.10. The Court recognized that there was no testimony “as to any belongings, residency papers, or any other evidence which could establish that [Moye] resided at the home.” *Id.* at 5, n.2. The Court ruled that the “State offered no evidence to suggest any relationship between Benson and Moye which would have established that Moye frequented the basement of the Bullocks’s home or that he was aware of what items were stored in the drawers of the counter area.” *Id.* at 20. The Court ultimately concluded that it was “left with nothing but

speculation as to Moye’s knowledge or exercise of dominion or control over the drugs and paraphernalia found in the Bullocks’s basement.” *Id.* at 17.

Unlike in *Moye*, the evidence established that Austin had a possessory interest in the Cameron Court apartment -- a stash house. Austin had a key to unlock the apartment door, his mail was found inside, and he made short, repeated visits there.

In *Leach*, police recovered PCP and various drug paraphernalia from the sole bedroom of an apartment. 296 Md. at 595. Police found a photograph depicting the defendant, Stephen Leach, in the apartment. *Id.* at 594. Stephen’s brother, Michael, and a third person were also depicted in that photograph. *Id.* That photo contained a handwritten reference to PCP. *Id.* Police also discovered personal papers in Michael’s name in the bedroom. *Id.* at 595-96. Upon booking, both brothers provided the apartment address in question as their address. *Id.* at 595. During the bench trial, the court expressly found that only Michael had occupied that apartment:

the trial judge stated he was “not going to assume that two gentlemen their age who are brothers were sleeping in the same bed. That’s an inference I’m not drawing” He found “[t]he evidence in this case [to be] abundantly clear that Michael Leach was the occupant, possessor of the apartment”

Id. at 595 (alterations in original). But the trial court later concluded that Stephen had constructively possessed the drugs:

Based on the evidence in the case, primarily the evidence of Mr. Stephen Leach’s access to the apartment, the fact he had the key to the apartment, the fact he had at one point the motorcycle registered at the apartment, the fact that he gave this apartment as his address at the time of the arrest, I believe there is sufficient evidence to justify a . . . finding of guilty

of . . . possession of Phencyclidine, and, in addition, I find that this evidence is buttressed by the . . . photograph in evidence

Id. at 595 (cleaned up). The Court of Appeals concluded that the evidence was insufficient, noting that “the fact finding that Michael was the occupant of the Premises precludes inferring that Stephen had joint dominion and control with Michael over the entire apartment and over everything contained anywhere in it.” *Id.* at 596. The Court thus determined that “[e]ven though Stephen had ready access to the apartment, it cannot be reasonably inferred that he exercised restraining or directing influence over PCP in a closed container on the bedroom dresser or over paraphernalia in the bedroom closet.” *Id.*

Unlike in *Leach*, where the trial court (as a factfinder) expressly found that the defendant’s brother was the sole resident of the apartment, and then essentially ruled to the contrary, here there was no evidence of exclusive possession of the Cameron Court apartment. Rather, the evidence established that the Cameron Court apartment was a stash house in the joint possession of multiple people. It can be reasonably inferred that Austin exercised a restraining and directing influence over the drugs found there.

The State argues that this case is like *Bordley v. State*, 205 Md. App. 692 (2012). We agree. *Bordley* argued that the State had failed to prove constructive possession of drugs found in a hotel room “given that [Bordley] was not seen in [the room], denied using the room, and did not have ‘actual possession of the room key,’ whereas there were two other men using the room, neither of whom were identified or linked to [Bordley].” *Id.* at 718. We disagreed with *Bordley* for several reasons, including the following: (1) *Bordley*

rented the room, (2) “[t]he amount, variety, and value of the [controlled dangerous substances] in the room, as well as the packaging paraphernalia, indicate that it was being prepared for distribution, not simply for personal use[,]” (3) “the discovery of [Bordley’s] checkbook in the room inferred his presence in the room and his intent to return for it[,]” and (4) “he provided access to the room to other persons, but maintained dominion and control by retaining a room key and/or access to the room through his friend[.]” *Id.* at 721-23.

Similarly, Austin had a possessory interest in the Cameron Court apartment because he made repeated, short stops at that apartment, he had a key to unlock the apartment door, his mail was found inside, and there was a photo album containing pictures of him found there. He possessed multiple cell phones and he had thousands of dollars hidden in a laundry hamper. The Cameron Court apartment was being used as a stash house that contained drugs and paraphernalia scattered throughout the apartment, including the following: scales, cutting agents, gel caps, heroin, fentanyl, and nearly a kilogram of cocaine. As to the controlled dangerous substances in the stash house, a rational factfinder could find that Austin had knowledge, dominion, and control. The evidence was sufficient to find him guilty of these offenses. We, therefore, affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**