

Circuit Court for Dorchester County  
Case No. C-09-CR-18-000168

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 599

September Term, 2019

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MONTIE LAMONT HAYMAN

v.

STATE OF MARYLAND

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Nazarian,  
Reed,  
Truffer, Keith R.  
(Specially Assigned),

JJ.

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Opinion by Truffer, J.

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Filed: June 24, 2020

\*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.

Following a jury trial in the Circuit Court for Dorchester County, Appellant Montie Lamont Hayman was convicted of possession of narcotics with intent to distribute, possession of cocaine, possession of drug paraphernalia, and failure to obey a reasonable and lawful order of a law enforcement officer. At sentencing, the court merged Mr. Hayman’s convictions for possession of cocaine and possession of drug paraphernalia into his conviction for possession of cocaine with intent to distribute. It sentenced Mr. Hayman to 8 years’ imprisonment for possession with intent to distribute and 60 days for failing to obey a reasonable and lawful order, the sentences to run concurrently. Mr. Hayman appeals his convictions for possession with intent to distribute and possession of drug paraphernalia.

We are asked to determine whether:

- (1) the circuit court erred in denying Mr. Hayman’s motion to suppress evidence seized in the course of the state’s execution of a warrant to search the apartment located at 523 Race Street?
- (2) the evidence presented was sufficient to permit a rational jury to find, beyond a reasonable doubt, that Mr. Hayman was in possession of drug paraphernalia and possession of cocaine with the intent to distribute.

For the reasons set forth below, we affirm Mr. Hayman’s conviction.

## I. FACTUAL AND PROCEDURAL BACKGROUND

### Applications for Search Warrants

Following an investigation concerning the sale of controlled dangerous substances in Cambridge, Maryland, Detective Stephen Hackett (“Detective Hackett”) from the Cambridge Police Department applied for two search and seizure warrants. One authorized the search of the person of suspect Montie Lamont Hayman and another authorized the search of Mr. Hayman’s residence. The application described the residence as:

523 Race ST APT C, Cambridge Dorchester County MD 21613. 523 Race St Apt C, is a two story apartment complex with what appears to be three separate apartments upstairs and an old bike repair shop downstairs. Standing on Race ST the apartment is upstairs and only access to the three apartments is made by an exterior stairwell to the left of the building. Apt C is the last apartment down the hall straight ahead and is facing the front of the building, looking out can see Race St and Simmons Center Market.

The affidavit in support of the warrant applications stated that in April of 2018, the Cambridge Police Department's Narcotic Enforcement Team ("NET") received information from a confidential reliable informant ("CI")<sup>1</sup> regarding the sale of controlled dangerous substances ("CDS"). The CI advised that a black male subject known to him as "Montie" was selling CDS, including but not limited to, crack-cocaine in and around the City of Cambridge and Dorchester County Maryland. The CI further provided, that "Montie" was selling CDS from his residence identified as "523 Race Street, Apt C, Cambridge, MD 21613."

The affidavit further provided that during the month of May 2018, Detective Hackett and other members of the Cambridge Police Department's NET utilized the CI to orchestrate two controlled purchases of CDS from "Montie." Both controlled purchases took place at the apartment building (one directly out front of the apartment building and the other inside the apartment building) located at 523 Race Street in Cambridge, MD. On both occasions, the CDS purchased by the CI was field tested, and the results were positive for cocaine. The CI identified "Montie" as Montie Lamont Hayman through a Cambridge mugshot photo.

The affidavit also stated that in May and June of 2018, the Cambridge Police Department's NET conducted surveillance on Mr. Hayman and the residence of 523 Race Street. Detective Hackett stated that during the course of the surveillance he observed multiple persons "coming and going from the apartments" and "staying for a short period of time." The Cambridge Police Department also "received multiple anonymous drug tips on the residence due to the large amount of foot traffic coming and going out of the residence."

#### Execution of Warrants

The warrants were signed on June 14, 2018.<sup>2</sup> On June 19, 2018 the Cambridge police officers executed the warrants. Mr. Hayman was apprehended across the street from the apartment building at Simmons Market. Upon execution of the personal search warrant, officers recovered

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<sup>1</sup> In the warrant application, Detective Hackett affirmed that the CI has a history with the Cambridge Police Department and is known to provide reliable information. Detective Hackett stated the CI "had previously purchased CDS for law enforcement agencies in Dorchester County and has never provided information that proved to be false or misleading."

<sup>2</sup> On appeal, Mr. Hayman does not challenge the validity of the personal warrant. Accordingly, we will limit our analysis to the validity of the warrant to search the residence of 523 Race Street Apt C.

one large clear plastic bag containing four small clear plastic bags, each containing suspected crack cocaine and \$63.00 in U.S. currency.

The search of the residence revealed additional contraband. Inside the apartment's single bedroom closet, officers recovered a black digital scale with suspected cocaine residue and numerous small Ziploc baggies. In the bedroom dresser, officers discovered \$600.00 in U.S. currency. Inside the bedroom, the officers also found mail addressed to Mr. Hayman and the title to his motor vehicle. In the kitchen, officers recovered "a small clear plastic bag that contained a white powdery substance, which did later test positive for cocaine," black plastic gloves, and clear plastic sandwich baggies with the corners ripped off. Detective Hackett testified that no smoking devices were found inside the apartment.

During a search of the exterior perimeter of the apartment, officers discovered four unlocked electrical boxes under the apartment's common access stairwell. Inside, they recovered a black plastic glove containing a large quantity of suspected crack cocaine and another black digital scale with suspected cocaine residue. Detective Hackett testified that the digital scales found inside the apartment and in the electrical boxes tested positive for cocaine residue.

Mr. Hayman was arrested and charged with a variety of drug related offenses.<sup>3</sup>

#### Motion to Suppress Hearing

Prior to trial, Mr. Hayman filed a motion to suppress all evidence seized during the search of the apartment, arguing the search warrant was invalid because the affidavit failed to connect Mr. Hayman to the apartment to be searched. In response, the State argued that the affidavit described the premises with particularity, and identified the residence as Mr. Hayman's. The State also argued that, even if the search warrant was issued without probable cause, suppression was not required because the officers acted in good faith in its execution.

The trial court denied Mr. Hayman's motion to suppress. The court concluded that the four corners of the warrant failed to provide sufficient information linking Mr. Hayman to the particular apartment to be searched. The court nevertheless held that the good faith exception prohibited exclusion of the seized evidence.

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<sup>3</sup> Mr. Hayman was formally charged with possession of narcotics with intent to distribute; possession of crack-cocaine; possession of cocaine; possession of drug paraphernalia; disorderly conduct; failure to obey a reasonable and lawful order of a law enforcement officer; and intentionally resisting a lawful arrest.

### Trial

A jury trial was held on May 9, 2019 in the Circuit Court for Dorchester County. Because the court had denied Mr. Hayman’s motion to suppress, the State introduced the evidence that had been seized from the apartment and the electrical boxes.

State’s witness Sergeant Lance Lloyd was accepted by the court as an expert in the field of CDS, narcotic evaluation, identification, investigation, and common practices of both dealers and users of CDS. Sergeant Lloyd testified that the evidence seized was consistent with drug distribution rather than personal use. Specifically, Sergeant Lloyd opined that the way the drugs which were found on Mr. Hayman were packaged—in smaller individual baggies—was consistent with drug distribution. Sergeant Lloyd also testified that the digital scales which tested positive for cocaine residue was indicative of drug distribution.

The jury found Mr. Hayman guilty of possession of CDS with intent to distribute, possession of cocaine, possession of drug paraphernalia, and failure to obey a reasonable and lawful order of a law enforcement officer.

Additional facts will be discussed as to each of the issues presented in this appeal.

## **II. DISCUSSION**

### ***A. Application of the Good Faith Exception***

Mr. Hayman argues that the trial court incorrectly applied the good faith exception in denying his motion to suppress because it was objectively unreasonable for officers to believe the warrant provided probable cause to search the apartment physically described in the warrant.

In Maryland, “reviewing courts have the discretion to decide the question of the officer’s good faith, and the applicability of the objective good faith exception, without deciding whether probable cause is lacking under the Fourth Amendment.” *Marshall v. State*, 415 Md. 399, 408, 2 A.3d 360, 365 (2010) (citing *McDonald v. State*, 347 Md. 452, 469, 701 A.2d 675, 683 (1997)). Because Mr. Hayman challenges the trial court’s application of the good faith exception, we shall assume *arguendo*, that the warrant to search Mr. Hayman’s apartment was not supported by probable cause and limit our analysis to the applicability of the good faith exception.

A trial court’s application of the good faith exception is reviewed *de novo* on appeal. *Patterson v. State*, 401 Md. 76, 104-05, 930 A.2d 348, 365 (2007) (citation omitted). As the reviewing court, we must determine whether the officers’ reliance on the warrant was objectively

reasonable, considering all the facts set forth in the affidavit in support of the warrant. *Agurs v. State*, 415 Md. 62, 95, 998 A.2d 868, 878 (2010) (citing *Connelly v. State*, 322 Md. 719, 735, 589 A.2d 958, 967 (1991)). We recognize that a finding of objective good faith “does not hinge upon the affidavit providing a substantial basis for determining the existence of probable cause.” *Patterson*, 401 Md. at 105, 930 A.2d at 365. Rather, “the standard of factual support required to be presented by the affidavit in order for evidence to be admitted under the good faith exception is considerably lower than the standard for establishing a substantial basis for a finding of probable cause by a judge issuing a search warrant.” *Marshal*, 415 Md. at 410, 2 A.3d at 366.

The *Leon* Court recognized four circumstances in which an officer's reliance on a search warrant would not be reasonable and the good faith exception would not apply:

- (1) if the magistrate or judge in issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard for the truth;
- (2) where the issuing magistrate wholly abandoned his detached and neutral judicial role;
- (3) if the warrant was based on an affidavit so lacking in probable cause as to render official belief in its existence entirely unreasonable; and
- (4) where the warrant is so facially deficient—i.e., in failing to particularize the place to be searched or the things to be seized—that the executing officers cannot reasonably presume it to be valid.

*United States v. Leon*, 468 U.S. 897, 923, 104 S.Ct. 3405, 3421 (1984) (citation omitted); *see also Greenstreet v. State*, 394 Md. 652, 679, 898 A.2d 961, 977 (2006).

Mr. Hayman contends that the third and fourth circumstances are applicable to the facts in the instant case.

#### “Bare Bones” Affidavit

The third limitation under *Leon* was “clearly intended to deal with a purely conclusory statement in a warrant application backed up by no further supporting data—a so-called ‘bare-bones’ affidavit.” *Williams v. State*, 231 Md. App. 156, 191, 149 A.3d 1220, 1240 (2016) (citation omitted). A “bare bones” affidavit is comprised entirely of conclusory statements, “which lack the facts and circumstances from which a magistrate can independently determine probable cause.” *Patterson*, 401 Md. at 107, 930 A.2d at 367 (citation omitted). The third limitation will

not apply if the warrant application provides some indicia of probable cause. *See Id.* at 108, 930 A.2d at 368.

Mr. Hayman argues there is nothing in the four corners of the warrant showing why officers believed Mr. Hayman's residence was the apartment physically described in the warrant, and therefore, it was unreasonable for officers to rely on it.

This case fits within the decision in *Braxton v. State*, 123 Md. App. 599, 720 A.2d 27 (1998). In *Braxton*, the appellant moved to suppress evidence recovered pursuant to a search warrant, because the supporting affidavit "failed to include any fact supporting the affiant's assertion that appellant resided at the targeted address." *Id.* at 644, 720 A.2d at 48. Notwithstanding the lack of probable cause, we held that the good faith exception applied because the officers' reliance on the warrant was objectively reasonable. *Id.* at 644, 720 A.2d at 49.

Similarly, in *Oesby v. State*, appellant challenged the denial of his motion to suppress, arguing that the affidavit did not establish probable cause because it failed to establish an adequate nexus between the appellant and the residence to be searched. 142 Md. App. 144, 149, 788 A.2d 662, 665 (2002). Nonetheless, we applied the good faith exception to the "gap in the required nexus between the person of the defendant and the residence that was searched." *Id.* at 154, 788 A.2d at 667. We reasoned that "the failure to spell out a more detailed nexus was by no means so egregious a flaw that the officers could be held to have acted in 'bad faith' in submitting the warrant application and in relying on the warrant." *Id.* at 153, 788 A.2d at 667.

Unlike *Braxton*, the affidavit in this case provided facts in support of the affiant's belief that the apartment to be searched was Mr. Hayman's. Detective Hackett stated in the application that the CI "advised 'Montie' sells from his residence on Race ST identified as 523 Race ST APT C." Additionally, the warrant contained substantial evidence that Mr. Hayman was engaged in the distribution of drugs and that he was selling drugs from his apartment at 523 Race Street. Detective Hackett stated that during the two controlled purchases Mr. Hayman "did instruct CI to come to his apartment building" and that while the affiant was conducting surveillance on the residence of 523 Race St, Mr. Hayman was frequently "observed coming and going from the residence." These facts support the conclusion that drug trafficking was originating from the identified apartment and that the apartment belonged to Mr. Hayman.

For these reasons, we find that the application for the search warrant included much more than merely “bare bones” detail preventing the use of the good faith exception.

Insufficient Identification of Place to be Searched

The fourth circumstance in which the good faith exception will not apply is where the description of the location to be searched is too general. “This exception applies when the warrant at issue fails to particularize the place to be searched or the things to be seized.” *Patterson*, 401 Md. at 110, 930 A.2d at 369 (citing *Leon*, 468 U.S. at 923, 104 S.Ct. at 3421). “A description of a place to be searched is ordinarily sufficient if the officer with the warrant can, with reasonable effort, ascertain and identify the place intended.” *Harris v. State*, 17 Md. App. 484, 488, 302 A.2d 655, 657 (1973) (citation omitted).

Mr. Hayman argues that the warrant was facially deficient because the unit physically described in the warrant—the last apartment down the hall—is Apt. A, not Apt. C. Mr. Hayman contends there was nothing in the four corners of the warrant providing probable cause to search Apt. A.

The warrant identified the place to be searched as:

523 Race ST APT C, Cambridge Dorchester County MD 21613. 523 Race St Apt C, is a two story apartment complex with what appears to be three separate apartments upstairs and an old bike repair shop downstairs. Standing on Race ST the apartment is upstairs and only access to the three apartments is made by an exterior stairwell to the left of the building. **Apt C is the last apartment down the hall straight ahead and is facing the front of the building, looking out can see Race St and Simmons Center Market.**

(emphasis added).

At the hearing on Mr. Hayman’s motion to suppress, Detective Hackett explained the confusion with the apartment unit letters:

Only one door out of the three apartments had a letter on them and that was the center door B. The first apartment had no letter on it and the last apartment had [no] letter on it. So at that time the assumption was made that ... the [last apartment] was C.

Detective Hackett also stated that prior to executing the warrant, a uniformed officer had knocked on the doors of all three apartment units at 523 Race Street to determine who occupied each unit.



Detective Hackett’s description of the layout of the second floor of 523 Race Street—a long hallway, with two apartments on the left side of the hallway and a single apartment straight ahead at the end of the hallway, directly facing Race Street—admits of only a single location to be searched.

We conclude that the physical description in the warrant sufficiently particularized the place to be searched.<sup>4</sup> Although the unit letter identified in the warrant was discovered to be incorrect after the warrant was executed, the officers searched the only apartment fitting the physical description set forth in the warrant. We conclude that the error in the description of the unit letter did not render the warrant “so facially deficient that the executing officers could not have reasonably presumed it to be valid.” We find no error in the trial court’s application of the good faith exception in denying Mr. Hayman’s motion to suppress.

***B. Sufficiency of the Evidence***

We now turn to Mr. Hayman’s contention that the evidence was insufficient to convict him of possession with intent to distribute or possession of drug paraphernalia. Specifically, Mr. Hayman argues that the evidence was insufficient to support a finding that he possessed the items seized from the apartment or the exterior electrical boxes. As a result, Mr. Hayman contends the State cannot show he possessed a sufficient quantity of cocaine to support the conviction of possession with an intent to distribute. In response, the State argues there was sufficient evidence that Mr. Hayman exercised dominion or control over the items found in both the apartment and electrical boxes.

In reviewing the sufficiency of evidence to support a criminal conviction, we must determine “[w]hether, after reviewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt.” *Rich v. State*, 205 Md. App. 227, 235, 44 A.3d 1063, 1068 (2012). We must “give due regard to the fact finder’s finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.” *Moye v. State*, 369 Md. 2, 12, 769 A.2d 821, 827 (2002) (quoting *McDonald v. State*, 347 Md. 452, 474, 701 A.2d 675, 685

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<sup>4</sup> Mr. Hayman additionally complains of a number of typographical and grammatical errors in the warrant application. None of these minor, typographical errors alters the court’s conclusion as to the application of the good faith exception.

(1997)). We give deference to “any possible reasonable inferences the jury could have drawn from the admitted evidence and need not decide whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence.” *Spell v. State*, 239 Md. App. 495, 511, 197 A.3d 562, 571 (2018) (citing *State v. Smith*, 374 Md. 527, 557, 823 A.2d 664, 682 (2003)).

To sustain a conviction for possession of CDS, the State must establish, beyond a reasonable doubt, that the defendant knowingly exercised actual or constructive dominion or control over the drugs for which he or she has been convicted of possessing. *Moye*, 369 Md. at 14, 796 A.2d at 828. “[T]he mere fact that the contraband is not found on the defendant’s person does not necessarily preclude an inference by the trier of fact that the defendant had possession of the contraband.” *State v. Gutierrez*, 446 Md. 221, 234, 130 A.3d 985, 992 (2016) (citing *Smith v. State*, 415 Md. 174, 187, 999 A.2d 986, 993 (2010)).

The State’s case against Mr. Hayman for possession of cocaine and possession of drug paraphernalia found in the apartment and electrical boxes was based entirely on circumstantial evidence of constructive possession. “Circumstantial evidence alone is sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused.” *Handy v. State*, 175 Md. App. 538, 562, 930 A.2d 1111, 1125 (2007) (quoting *Painter v. State*, 157 Md. App. 1, 11, 848 A.2d 692, 698 (2004)). “[T]he inferences made from circumstantial evidence must rest upon more than mere speculation or conjecture.” *Smith*, 415 Md. at 185, 999 A.2d at 992 (citation omitted).

In *Smith v. State*, the Court of Appeals set forth four factors to consider when determining whether evidence is sufficient to support a finding of constructive 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.

415 Md. at 198, 999 A.2d at 999-1000 (citation omitted).

### Apartment

Applying these four factors, we begin with the evidence seized from the apartment.

Mr. Hayman argues that the Court of Appeals decision in *Moye v. State*, 369 Md. 2, 796 A.2d 821 (2002), supports the conclusion that the evidence in this case was insufficient to support a conviction for possession with intent to distribute a controlled dangerous substance. We disagree.

In *Moye*, drugs and paraphernalia were seized from a basement apartment. The evidence at trial established that a third party was the sole lessee of the basement apartment and that appellant did not have any ownership or possessory right in the premises where the drugs and paraphernalia were found. *Id.* at 18, 796 A.2d at 831. The Court explained, “[t]he state offered no evidence to suggest any relationship between [the lessee] and [appellant] which would establish that [appellant] frequented the basement.” *Id.* at 20, 796 A.2d at 832. Furthermore, no evidence was presented at trial to establish appellant’s proximity to the drugs or that the appellant was sharing in the mutual use and enjoyment of the drugs. *Id.*

The facts in the present case are distinguishable from the facts in *Moye*. The State offered evidence that Mr. Hayman had at least a possessory interest in the apartment. At trial, the State introduced mail addressed to Mr. Hayman that was recovered in the apartment’s only bedroom. The mail was addressed to Mr. Hayman at the apartment’s location. Additionally, Detective Hackett testified that prior to the execution of the warrant, a uniformed officer went to each of the three apartment units at 523 Race Street to determine which unit belonged to Mr. Hayman. Detective Hackett testified that he reviewed the officer’s body camera footage and Mr. Hayman answered the door to the last unit down the hall. There was no indication that anyone else had been living in the apartment. Based on this evidence, the jury could reasonably infer that Mr. Hayman had been living at the apartment, and had dominion or control over the contraband found within the apartment.

Evidence was also introduced to show that Mr. Hayman’s conduct satisfied the “mutual use and enjoyment” element of the analysis. The concept of “mutual use and enjoyment,” not only encompasses actual use, but also contemplates whether individuals participated in drug distribution. *Gutierrez*, 446 Md. at 237, 130 A.3d at 994. Evidence connecting an individual to the specific location where the contraband was found may permit a rational trier of fact to infer

that the individual was participating in the use and enjoyment of the drugs. *See Spell*, 239 Md. App. at 513, 197 A.3d at 572-73 (the yellow-topped vials of cocaine in the utility room that matched the yellow-topped vials of cocaine found on appellant’s person permitted a rational trier of fact to infer that appellant was participating in the use and enjoyment of the drugs in the utility room.”).

Here, the contraband found on Mr. Hayman’s person linked him to the items discovered in the kitchen of the apartment. Specifically, the crack cocaine found on Mr. Hayman when he was arrested had been packaged in the ripped off corners of sandwich baggies and officers discovered baggies with the corners missing inside the kitchen trashcan. Sergeant Lloyd testified that dealers commonly prepare drugs for distribution in sandwich baggies by putting the drugs in the corners of plastic bags and then tearing off the corners of the bags. Under *Spell*, the similarity of items permits an inference that Mr. Hayman exercised dominion and control over the contraband in the kitchen.

The two remaining factors, proximity to the contraband and its accessibility to the defendant, also weigh against Mr. Hayman. Although Mr. Hayman was not inside the apartment at the time of the search, he was apprehended in close proximity to the apartment building. As detailed above, other evidence connected Mr. Hayman to the bedroom where the digital scale, sandwich baggies and U.S. currency were discovered.

Based on our review of the relevant factors, we conclude that the evidence was sufficient for the jury to find beyond a reasonable doubt that Mr. Hayman possessed the contraband in the apartment.

#### Electrical Boxes

The contraband seized from the building’s electrical boxes presents a different set of issues. Mr. Hayman argues that our decision in *Rich v. State*, 205 Md. App. 227, 44 A.3d 1063 (2012), is illustrative as to how this court should apply the four factors to the evidence found in the electrical box.

In *Rich*, the appellant was convicted of possession with intent to distribute cocaine. *Id.* at 234, 44 A.3d at 1067. The cocaine was recovered from a flower garden belonging to a residence near the location where the defendant had fled the police three days earlier. *Id.* at 235, 44 A.3d at

1068. The flower garden was accessible to the general public and, prior to his flight from the police, a search of the defendant's person produced no cocaine. *Id.* at 237, 44 A.3d at 1069.

By contrast, Mr. Hayman was found with crack cocaine on his person when he was apprehended directly across the street from the apartment building and its electrical boxes. The electrical boxes were located underneath the apartment's common access stairway. They were observed to be unlocked and appeared to have been tampered with.

While mere access alone may not be sufficient to infer possession, evidence connecting the defendant to the seized contraband may permit such an inference. *See Spell*, 239 Md. App. at 513, 197 A.3d at 572-573. Mr. Hayman argues that the possession of “innocuous items” —the digital scale, sandwich baggies, and black plastic gloves—found inside Mr. Hayman's apartment cannot be used to link him to the cocaine in the electrical boxes. Mr. Hayman points to *State v. Leach*, 296 Md. 591, 463 A.2d 872 (1983), to support this contention.

In *Leach*, the defendant was convicted of possession of PCP and paraphernalia seized from the bedroom in a one-bedroom apartment where the defendant's brother lived. *Id.* at 594, 463 A.2d at 873. In a bench trial, the trial court found that the defendant, who was not present when the items were seized, did not reside in the apartment. *Id.* at 595, 463 A.2d at 874. The court nevertheless found that the defendant was in constructive possession of those items discovered in the bedroom, as well as scales and a magnifier found on a kitchen table, separate from any drugs. *Id.* The Court of Appeals reversed the conviction holding that there was insufficient evidence to support the defendant's constructive possession of items taken from the bedroom. *Id.* at 596, 463 A.2d at 874. The Court also commented that, separated from the drugs, the scales and magnifier were “intrinsicly innocuous,” observing that “[t]hey become significant by association with drugs or cutting agents.” *Id.* at 596, 463 A.2d at 875.

In the present case, the State introduced evidence that the items seized from inside the apartment—black plastic gloves and plastic baggies in the kitchen trashcan, and the digital scale from the bedroom tested positive for CDS residue. Based on this testimony, a jury could have rationally inferred that the items from the apartment were evidence of drug distribution paraphernalia. The search of the electrical boxes yielded cocaine (31.6 g), a black plastic glove, other baggies and a scale. The critical link between Mr. Hayman, the items in the apartment and

those seized from the electrical boxes is their similarity. The two black digital scales and the black plastic gloves were similar enough to permit the jury to infer that they were all possessed by the same person, Mr. Hayman, as part of the same drug distribution enterprise.

Based on our review of the relevant factors, we conclude that the evidence was sufficient for the jury to find beyond a reasonable doubt that Mr. Hayman possessed the cocaine and paraphernalia seized from the electrical boxes beneath the stairway to his apartment.<sup>5</sup> In sum, the circumstantial evidence presented by the State was sufficient to sustain the jury's verdict, and therefore, we affirm the judgment of the circuit court.

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

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<sup>5</sup> Even if we assume, *arguendo*, Mr. Hayman did not possess the items inside the electrical box, we reach the same conclusion regarding the sufficiency of the evidence to support Mr. Hayman's conviction for possession with intent to distribute. Mr. Hayman and the State agree that no specific quantity of drugs is required to allow the inference of intent to distribute. *See Purnell v. State*, 171 Md. App. 582 (2006). As noted above, the State called Sergeant Lloyd to testify as an expert in the field of CDS and common practices of both dealers and users of CDS. Sergeant Lloyd testified that the paraphernalia found inside Mr. Hayman's apartment and the packaging of the drugs Mr. Hayman possessed were indicative of possession with intent to distribute rather than for personal use.