Circuit Court for Anne Arundel County
Case No. C-02-CR-17-000659

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1977

September Term, 2017

KEVIN LAMONT SCOTT

v.

STATE OF MARYLAND

Meredith,
Kehoe,
Berger,
JJ.

Opinion by Kehoe, J.

Filed: February 22, 2019

Appellant, Kevin Lamont Scott ("Scott"), was convicted by a jury in the Circuit Court for Anne Arundel County of possession of heroin and marijuana with intent to distribute, possession of heroin and marijuana, possession of a firearm with a nexus to drug trafficking, and three other counts of unlawful possession of a firearm. Scott presents for our review a single question: Was the evidence sufficient to sustain the convictions? For the following reasons, we shall affirm the judgments of the circuit court.

Facts and Proceedings

Scott was initially charged by indictment with the offenses described above, as well as possession of cocaine with intent to distribute, possession of cocaine, and conspiracy to possess heroin, marijuana, and cocaine with intent to distribute. At trial, the State called Anne Arundel County Police Detective Justin Toomire, who testified that in January 2017, he received information that an individual known as "D" was selling drugs from his residence at 8059 Green Orchard Road, Apartment 22, in Glen Burnie. The detective later discovered that "D" is Scott's brother, Damion Scott ("Damion"). The following month, Detective Toomire arranged two "controlled buys" by a "confidential informant." During the first controlled buy, the detective observed Damion exit the apartment building and distribute drugs to the informant. During the second controlled buy, the detective "went into the apartment building" and "watched [Damion] leave the apartment" to conduct the transaction.

On March 1, 2017, Detective Toomire and other officers executed a warrant authorizing a search of the apartment. The detective observed that the apartment was "relatively small," with a living room, a kitchen, and three bedrooms, "but only two bedrooms . . . being utilized." In the living room, Detective Toomire encountered Scott, Damion, and five other individuals. The detective asked the group "if there was anything illegal, any items or contraband in the residence that [the officers] would find during the search." Scott stated, "[j]ust some weed in my room," or "there's some weed in my bedroom." Scott directed Detective Toomire to the bedroom "in the back."

In that bedroom, which contained one bed, Detective Toomire discovered, on the top shelf of a closet, "a functional digital scale with suspected crack cocaine residue," a "gel capsule containing suspected heroin residue," and a "federal ammunition box." The detective also observed the top of a glass jar, which upon further investigation was found to "contain[] twelve twisted plastic bags that each contained suspected marijuana." Detective Toomire had to "clear off all the clothes off the [top] shelf to get to these other items[.]" Under some other clothes, the detective discovered a "blue storage bin" containing a "Smith and Wesson .38 special revolver," loaded with "[s]ix rounds of Winchester ammunition." In a "locked box" on the floor of the closet, Detective Toomire discovered "two heat-sealed plastic bags containing a green-leaf substance or suspected marijuana." In the pocket of a pair of jeans, the detective discovered "multiple clear Ziploc bags." On the floor of the bedroom, Detective Toomire discovered a "certified MVA record" containing a photo of Scott, his name, and the address of the apartment. The

detective also discovered a document in Damion's name, and an "additional functional digital scale" containing "suspected marijuana residue." In "the bathroom that was next to the bedroom," the detective discovered, in "the cabinet underneath the sink," a "clear plastic bag that contained 13 gel capsules of a white powder substance, suspected heroin," and "a clear plastic bag with eleven smaller Ziploc bags containing a white rocklike substance which was suspected crack cocaine."

The State next called Anne Arundel County Police Corporal William Wild, who testified that he was part of the department's "quick response team" that "secure[d] the residence" to "make it safe for the detectives to come in." Corporal Wild stated that he was "the first person through the door" of the apartment. The corporal then "proceeded down the hallway" to a bedroom where he discovered Scott, who was "sleeping on the floor," and Damion. Corporal Wild "held . . . the two in the bedroom until another officer . . . secured the[m] in handcuffs."

The State next called Anne Arundel County Police Department senior forensic chemist Robert Llano, who was accepted as an expert in the field of forensic chemistry. Llano testified that he tested the substance found inside the glass jar discovered by Detective Toomire and determined it to be marijuana, and further determined the weight of the marijuana and its packaging to be 55.09 grams. Llano also tested the substance found inside the heat-sealed bags and determined it to be marijuana, and further determined the weight of that marijuana and its packaging to be 129.67 grams. Llano also tested the substance found inside the thirteen gel capsules and determined it to be heroin. Finally, Llano tested

the substance found inside the eleven Ziploc bags and determined it to be cocaine, and further determined the weight of the cocaine and its packaging to be 2.19 grams.

Finally, the State called Anne Arundel County Police Detective Bryan Eshkenazi, who was accepted as an expert in the fields of "controlled[] dangerous substances, identification, appearance, pricing, packaging, and street level sells." Detective Eshkenazi testified that, in his opinion, the marijuana found in the glass jar was "consistent with . . . possession with intent to distribute," because "the number of packages . . . and the amount" were "more than a typical user would have on them." The detective testified that the marijuana found in the heat-sealed bags was also "consistent with possession[] with intent to distribute," because that type of packaging is meant "to mask the smell," and marijuana "users [do not] typically keep their marijuana for personal use in large, heat sealed bags." The detective stated that the "approximate value" of the marijuana in the heat-sealed bags was $3,726, and noted that the officers did not recover "anything . . . that could be used to actually ingest[] or use marijuana." Detective Eshkenazi next testified that the heroin seized by Detective Toomire was consistent with "[p]ossession with intent to distribute." Detective Eshkenazi stated that "a typical user will usually only have about one to three gel capsules" of heroin, "because it's highly addictive [and] they want to use it immediately." The detective further stated that the lack of "testimony of finding" items used in the consumption of heroin, such as "needles, or blackened spoons, or used swabs, or Brillos," meant that "they're not using heroin." Detective Eshkenazi next testified that the cocaine seized by Detective Toomire was consistent with "[p]ossession with intent to

distribute." Detective Eshkenazi stated that a "typical user" of cocaine would "only have one or two pieces," because "it's highly addictive [and] they're going to use it immediately." The detective further stated that the cocaine was worth approximately $110, and that the lack of evidence that items used in the consumption of cocaine, such as "crack pipes" or other "cylindrical object[s]," were found meant "[t]hat they're not using crack cocaine." Detective Eshkenazi next testified that the "zip lock baggies" seized by Detective Toomire are used "for packaging," and the scales are "used to weigh and prepare[]" marijuana "for distribution." Finally, Detective Eshkenazi testified that "a dealer will use a gun to protect themselves, or their assets," because "they know that other people know that . . . they may have a large amount of money or drugs on them."

Following the close of the State's case, Scott moved for judgment of acquittal of all of the counts on the ground, among others, that "[m]ere presence, mere knowledge, is not enough for possession." The court granted the motion as to the conspiracy counts, but denied the motion as to the possession counts, stating:

> I think in the light most favorable to a non-moving party, with him being the lawful resident of the home, present in the room, and expressing knowledge as to at least one of the drugs that were found, and with other drugs being out and open and available for anyone to see, . . . then it's in the light most favorable to the non-moving party.
>
> The nexus does concern me, because . . . it's just there, but the detective did indicate that he believed guns were possessed by people who are distributing drugs for protection in the event someone is to come into the home. . . . . So I think the detective has established a rational basis in the light most favorable to the non-moving party, how there could be a nexus.

Scott was subsequently acquitted of possession of cocaine with intent to distribute and possession of cocaine, but convicted of the remaining offenses.

Analysis

Scott contends that the evidence is insufficient to sustain the convictions, because a "rational trier of fact could not have reasonably inferred that [he] possessed the illicit items." (Boldface omitted.) We disagree. The standard of review is well-settled: "the critical inquiry on review of the sufficiency of the evidence to support a criminal conviction . . . . is 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." *Jackson v. Virginia*, 443 U.S. 307, 318–19 (1979) (emphasis in original). In this exercise, we bear in mind that that the finder of fact has the ability to choose among differing inferences that might possibly be made from a factual situation. That is the fact-finder's role, not that of an appellate court." *Smith v. State*, 415 Md. 174, 183 (2010) (Quotation marks, citations and ellipsis omitted).

Md. Code (2002, 2012 Repl. Vol., 2016 Supp.), § 5-101(v) of the Criminal Law Article, defines "possess" as "to exercise actual or constructive dominion or control over a thing by one or more persons." The "evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited . . . drug in the sense contemplated by the statute, *i.e.*, that the accused exercised some restraining or direct influence over it." *State v. Gutierrez*, 446 Md. 221, 233 (2016) (internal citation and quotations omitted). The Court of Appeals has:

> articulated four factors as pertinent to the issue of whether 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.

Id. at 234 (internal citation and ellipsis omitted). "With respect to the concept of 'mutual use and enjoyment,' not only is actual use contemplated but also whether individuals participated in drug distribution." *Id.* at 237 (citing *Cook v. State*, 84 Md. App. 122, 134-35 (1990) (mutual use and enjoyment could be inferred when evidence indicated that "the house was being used as a base for a drug operation in which the appellants played a role")).

Here, Scott was found sleeping in a room which he described as "his bedroom." The police discovered marijuana and a firearm in the closet of that room, and heroin and cocaine hidden in the bathroom located immediately adjacent to the bedroom. The drugs and firearm were accessible to Scott, as Detective Toomire needed only to move clothes to gain access to the marijuana and firearm, and needed only to open the cabinet under the bathroom sink to gain access to the heroin and cocaine. Detectives Toomire and Eshkenazi presented considerable evidence that the apartment was being used as a base for drug distribution, and Scott's statement that the bedroom contained marijuana indicated use and enjoyment of the marijuana. Finally, Scott's reference to the bedroom as "my room" and the presence in the bedroom of an MVA record listing the apartment as Scott's address

indicated that Scott had a possessory interest in the apartment. This evidence supports a rational inference that Scott did in fact exercise some dominion or control over the drugs and firearm by exercising some restraint or direct influence over them.

Scott contends that "the inference that [he] exercised 'dominion or control' over the contraband is unreasonable" for the following reasons:

- The drugs and firearm "were not found on [Scott] or even within reaching distance from the floor, where he was asleep," and he "was no more proximate to the contraband than other defendants whose convictions for possession were reversed because of insufficient evidence."
- "The firearm was only visible when the detective removed the clothes and looked in the container," the "ammunition found separate from the gun was also hidden from sight," and "only the top of the glass jar was visible upon entering the closet."
- Detective Toomire "testified that [Scott] had no involvement in the controlled drug purchases made at the residence," and hence, "[t]he expert's testimony that drug dealers use guns for protection . . . suggested that Damion, whom the investigation confirmed was dealing drugs, possessed the drugs and gun."
- When Corporal Wild entered the bedroom, Scott "was lying asleep on the floor, while his brother was on the only mattress in the room," and "there was no suggestion that the police observed [Scott] in the residence at any point during their two-month investigation."

These factors do not render the evidence legally insufficient. To be sure, a jury could draw exculpatory inferences from this evidence, but the "mere fact that . . . 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," and a defendant's proximity to the drugs is not, "in and of [itself], conclusive evidence of possession." *Gutierrez*, 446 Md. at 234 (internal citations and quotations omitted). Also, the Court of Appeals has made clear that contraband does not have to be in plain view in order for an individual to be in possession of the contraband. *See id.* Moreover, contrary to Scott's appellate assertion, Detective Toomire did not testify that Scott "had no involvement" in the controlled buys. The detective's testimony that Damion was the only person who exited the apartment or apartment building during the buys does not mean that Scott was not involved in the distribution of drugs to the confidential informants. Finally, Scott does not cite any case, and we are unaware of any, that nullifies his previous claims, to Detective Toomire and the MVA, of an ownership or possessory interest in the bedroom where he was discovered simply because he was discovered to be sleeping on the floor of the bedroom, instead of the bed, and had not been previously observed inside the apartment. Scott next contends that *Davis and Green v. State*, 9 Md. App. 48 (1970), is instructive. We disagree. The facts were as follows:

> On December 26, 1967, [Davis and Green] each signed, as husband and wife, a two-year lease on an apartment in Baltimore County. On February 28, 1968, a police officer working under cover, Thomas Manzari, went to [Davis and Green's] apartment accompanied by one Terry Diamond. . . . Green admitted Miss Diamond to the apartment but told Manzari to wait outside. A

few minutes thereafter, Diamond emerged from the apartment and conversed with Manzari, following which Manzari returned to the apartment where he met Green, who was then standing outside of her apartment. Manzari asked Green to sell him $50.00 worth of marihuana. Green agreed, went by herself into the apartment and returned with a "Read's Drug Store bag" full of marihuana, which Manzari then bought.

Subsequently, the police obtained a search warrant for [the] apartment which was executed at 5:15 p.m. on March 23, 1968. The officers entered the apartment through the unlocked door after their knock went unanswered. . . . Green was present in the apartment; . . . Davis was not. The police observed in plain view on the living room coffee table two small pieces of hashish and a razor blade. . . . Davis then entered the apartment. The police continued their search of the apartment and found a metal box on top of the stereo record cabinet which, upon inspection, was found to contain suspected marihuana pipes, a bottle cap, an eyedropper, a needle, a piece of cotton still in the bottle cap, a small postal scale and an envelope containing marihuana. An examination of . . . Davis revealed needle marks on his arm and armpits of a type commonly found on narcotic addicts and made by hypodermic injection.

Mrs. Dorothy Glazer, a part-time rental agent for the apartment development in which [Davis and Green] had rented their apartment, testified that both . . . signed the lease in her presence. She stated that she recognized them at the trial because "[t]hey lived in the apartment right next door to me."

Isadore Davis, . . . Davis's father, testified on his son's behalf that he paid the rent on the apartment; that his son had . . . Green "in a family way" and he (the older Davis) was "looking to protect" Green until the baby was born; that his son resided at home with him, although he did stay with Green two nights weekly between January 1, 1968 and the end of March, 1968.

There was evidence showing that during their search of the apartment, the police found some men's slacks, shaving cream, and a razor in the apartment.

Id. at 50-51.

Following a joint non-jury trial, the court convicted Davis of "control of marihuana" on February 28, 1968 and "control of marihuana" on March 23, 1968, and convicted Green of "possession and sale of marihuana and . . . possession of narcotic paraphernalia." *Id.* at 49-50.

On appeal, Davis and Green contended "that the evidence was insufficient to support [their] convictions." *Id.* at 50 (footnote omitted). We affirmed Green's convictions and Davis's conviction for "control of marihuana" on March 23, 1968. *Id.* at 55-56. But, we reversed Davis's conviction for "control of marihuana" on February 28, 1968, stating:

> The only evidence linking . . . Davis with the marihuana sold by Green to Manzari on February 28, 1968 was that he was a co-lessee of the premises, resided there at least two nights weekly, and had an intimate personal relationship with the co-lessee Green. It was not shown that Davis was on the premises at the time of the sale. There was no evidence or inferences drawable therefrom to show where in the apartment Green kept the marihuana which she sold Manzari, nor was there any evidence showing that Davis knew Green had marihuana on the premises at that time or was using the apartment for the purpose of keeping and/or selling that prohibited narcotic drug. The conviction of Davis for exercising restraining or directing influence over the marihuana sold by Green to Manzari would appear to rest entirely on the fact of his co-occupancy of the apartment and his relationship with Green. To convict Davis because, as a joint occupant of the premises from which the marihuana was sold, he had non-exclusive access thereto is to infer his guilt solely on account of his intimate relationship and association with Green. We think this, without more, too thin a nexus upon which to predicate guilt[.]

Id. at 55.

The evidence in the case before us supplies the nexus that was lacking in *Davis and Green*. Like Davis on March 23, 1968, Scott was on the premises at the time of the execution of the warrant to search the premises. Also, the State produced considerable

evidence as to where in the apartment the drugs intended for distribution were kept, that Scott knew that there was marijuana on the premises, and that the apartment was being used for the purpose of distributing drugs. Hence, *Davis* is inapplicable.

Scott next contends that *United States v. Taylor*, 113 F.3d 1136 (10th Cir. 1997), is instructive. We again disagree. The relevant facts were:

> [Mr. Taylor] came to Oklahoma City, Oklahoma, from California in June 1995. Mr. Taylor brought two ounces of cocaine with him and Mr. Taylor and Ahmad Jamal Davis sold the cocaine to individuals in Oklahoma City. In July 1995, Mr. Taylor flew back to California, and returned with nine ounces of powder cocaine. The cocaine was "cooked" and half of it was sold.
>
> In August 1995, Abdoulia Wallace, Mr. Davis, and Mr. Taylor were staying in apartment 120 at the Silvercrest Apartments in Oklahoma City. Apparently, Jimmy D. Reed had rented the apartment for Mr. Taylor and Mr. Wallace.
>
> On or before August 2, 1995, the Oklahoma City Police Department obtained a search warrant permitting the police to search Silvercrest apartment 120. The police executed this search warrant on the afternoon of August 2, 1995. Mr. Taylor, Mr. Wallace, and Dominique Banks were in apartment 120 at the time of the search. When the officers entered the apartment, Mr. Taylor was "by the couch" near the front door, Mr. Banks was seated at a nearby table, and Mr. Wallace was situated in the northeast bedroom. Mr. Taylor consented to a police search of his person. Officer Mike Kelly, who conducted the search of Mr. Taylor, found no guns or weapons on Mr. Taylor.
>
> Officer Kelly also participated in the search of the northeast bedroom. In the closet in the northeast bedroom, Officer Kelly uncovered approximately 22.6 grams of crack cocaine, a Jennings Bryco nine millimeter handgun, and some bullets. Officer Kelly found a Davis .380 handgun under the mattress in the northeast bedroom. In an entertainment center located in the northeast bedroom, Officer Kelly discovered more crack cocaine along with digital scales and plastic baggies. Also in the entertainment center, Officer Kelly found Western Union money transfers in the name of John Taylor and Joanne Taylor, and pawn shop tickets from A & V Pawn Shop in Long Beach,

> California. At trial, Stanley Zuckerman, the president of A & V Pawn Shop, testified his records established the pawn tickets found in the entertainment center belonged to Mr. Taylor.

Id. at 1139.

Mr. Taylor was convicted of possession with intent to distribute cocaine base, conspiracy to possess with intent to distribute and to distribute cocaine base, and possession of a firearm, specifically the Jennings Bryco nine millimeter handgun, by a convicted felon. *Id.* at 1138, 1144.

On appeal, Taylor contended that "the evidence at trial was insufficient to support his conviction [for] possession of a firearm by a convicted felon." *Id.* at 1144 (footnote omitted). Reversing the conviction, the United States Court of Appeals for the Tenth Circuit stated:

> If the government had estabished Mr. Taylor was the sole occupant of the northeast bedroom, we could sustain [the] conviction on the basis of the Western Union receipts and pawn shop tickets. However, joint occupancy of a bedroom, without more, is insufficient to support a conviction of constructive possession of a gun found in a bedroom. The evidence at trial indicated joint occupancy of the northeast bedroom. When the officers entered apartment 120 on August 2, 1995, the police found and arrested Mr. Wallace in the northeast bedroom, not Mr. Taylor. Furthermore, during the search of the northeast bedroom closet, the police seized a jacket containing a bus ticket in the name of Eric Reese. Because the evidence indicated joint occupancy of the northeast bedroom, we cannot infer Mr. Taylor had constructive possession of the handgun from the mere fact Mr. Taylor was one of the bedroom's occupants.

Id. at 1146 (citations and footnote omitted).

In the present case, the State produced evidence greater than just "the mere fact" that Scott was one of the bedroom's occupants. Detective Eshkenazi gave expert testimony that

the drugs discovered in the apartment were consistent with an intent to distribute, and a drug "dealer will use a gun to protect themselves[] or their assets," because "they know that other people know that . . . they may have a large amount of money or drugs on them." This evidence supports a rational inference that Scott was involved in drug distribution, and possessed the firearm discovered in the apartment to protect himself, the drugs, or the proceeds from the distribution of the drugs. Hence, *Taylor* is inapplicable.

Finally, Scott cites the conclusion of the United States Court of Appeals for the District of Columbia Circuit in *United States v. Boyd*, 803 F.3d 690 (D.C. Cir. 2015), that "the government may not establish a defendant's constructive possession of concealed contraband solely by showing that the defendant occupied the room containing the contraband if, as here, the defendant shared the room with others." *Id.* at 692. But, Scott misapplies the case. Boyd was arrested by:

> officers from the District of Columbia Metropolitan Police Department . . . for a crime unrelated to this case. The officers brought Boyd to an interview room where they read him his rights and proceeded to question him. When the officers took a break from interviewing Boyd, he asked to call his girlfriend, Yolanda Hairston, with whom he lived. The officers gave Boyd a cell phone and then left the room. Unbeknownst to Boyd, the interview room recording system captured his end of the conversation.
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> In a portion of the phone call the government later played for the jury, Boyd first explained, "I got to hurry up and get off this phone before the police come back." He then gave Hairston the following instructions:
>
> > And where [your uncle] at?
> >
> > Hey, give him that luggage, you know what I'm talking about? Hey, and it's a blue bag – you know that – you know my time piece, right? Listen to me, man. That time piece – listen. Will

> you – hello. Then shut up and listen then. I ain't tell you to think, just shut up and listen. The watch – can you hear me – do something with that. Just put it away, put it away, all right?
>
> The following day, the police executed a search warrant at Boyd's residence, which he shared with Hairston, her uncle, her children, and her two brothers. Hairston's mother, the owner of the home, also stayed there part time. Although Boyd, Hairston, and her children were the only people living in their second-floor room at the time, the door had no functioning lock, and other residents of the house periodically entered to use a PlayStation and a television. Additionally, Hairston's sister had previously lived in the room, and some of her personal property remained there.
>
> One of the officers went upstairs to search the bedroom. In a gym bag the officer found a smaller blue bag containing bullets. The government indicted Boyd for possession of ammunition by a felon[.]
>
> After the government presented its evidence and then again at the close of evidence, Boyd moved for a judgment of acquittal, arguing that the record contained insufficient evidence for the jury to conclude that he possessed the ammunition. The district court denied the motion, and the jury convicted Boyd.

Id. at 691-92 (exhibit references and citation omitted).

On appeal, Boyd "again challeng[ed] the sufficiency of the evidence establishing his possession." *Id.* at 692. The government countered that "the location of the ammunition in Boyd's bedroom was by itself sufficient to establish Boyd's constructive possession." *Id.* Affirming the conviction, the District of Columbia Circuit stated:

> It is true . . . that the inference that a person who occupies an apartment has dominion and control over its contents applies even when that person shares the premises with others. We have made the same point in other cases. But the records in those cases either contained other evidence from which the jury could have inferred the defendant's constructive possession, or allowed the jury to conclude the defendant was in fact the room's sole occupant. These cases are therefore consistent with the notion that when the defendant

> shares the room containing the concealed contraband, the government must present additional evidence of constructive possession.
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> The record in this case contains such additional evidence. Most important, before the grand jury Hairston [testified that the blue bag belonged to Boyd.]
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> * * *
>
> The government used this testimony at trial to impeach Hairston after she testified that she did not know who owned the blue bag. Her testimony also came in as substantive evidence. Based on Hairston's statement that Boyd was the owner of the bag containing the bullets, the jury could reasonably have concluded that Boyd constructively possessed the ammunition.
>
> Providing still further support for the jury's verdict, the government points to Boyd's phone call from the police interview room. After saying he had to "hurry up and get off this phone before the police [came] back," Boyd told Hairston to get rid of a watch, a piece of luggage, and a blue bag. A police detective testified that a watch and luggage, but not a blue bag, were relevant to the investigation of the unrelated crime for which the officers arrested Boyd. Since two of the three items Boyd mentioned were relevant to a criminal investigation, the jury could reasonably have concluded that Boyd called Hairston to conceal contraband. And because the blue bag had nothing to do with the officers' separate investigation, the jury could have concluded, again reasonably, that it was the one that contained the bullets.

Id. at 692-93 (internal citations, transcript references, quotations, and brackets omitted).

In the present case, as in *Boyd*, the State produced "other evidence from which the jury could have inferred [Scott's] constructive possession." Specifically, the State produced evidence that the apartment was being used as a base for drug distribution; that Scott referred to the room in which he was discovered as "my room"; that he had told the Motor Vehicle Administration that the apartment was his address; that he was discovered by police in close proximity to the contraband; and that he knew that the bedroom contained marijuana. Because the jury could have reasonably concluded from this evidence that Scott

was in constructive possession of the drugs and firearm, *Boyd* does not require reversal, and the evidence is sufficient to sustain the convictions.

THE JUDGMENTS OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY ARE AFFIRMED; COSTS TO BE PAID BY APPELLANT.