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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN WOODS,

Defendant and Appellant.

B231292

(Los Angeles County
Super. Ct. No. VA115840)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Michael L. Schuur, Judge. Affirmed as modified.

Law Offices of Pamela J. Voich and Pamela J. Voich, for Defendant and
Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Lance E. Winters, Assistant Attorney General, James William Bilderback II and
Sonya Roth, Deputy Attorneys General, for Plaintiff and Respondent.

Steven Woods appeals from the judgment entered after the bench trial where he was convicted of one count of possessing cocaine base for sale. We conclude there was substantial evidence to support the conviction, and, after modifying the judgment to correct the amount of custody credits Woods is owed, affirm the judgment.

FACTS AND PROCEDURAL HISTORY

On the night of March 23, 2010, Steven Woods was stopped by Los Angeles County Sheriff's Deputies Johnson and Fitzpatrick, who saw Woods driving out of the Central Inn Motel's parking lot and noticed that his registration tags had expired. Woods kept averting his head as the deputies spoke with him, and the deputies noticed a bulge in Woods's cheek and a small plastic bag in his mouth. The deputies asked Woods to get out of his car, but he resisted when they tried to handcuff him. After Woods bent over at the waist, the deputies noticed that Woods's mouth was empty, and spotted two small baggies containing what looked like rock cocaine on the ground about two feet away. A search of Woods turned up a key ring that had a car key and a residential door key on it, and \$2,090 in cash.

Two more deputies arrived to help out, including Deputy Brandon Patin. After being told that Woods was staying in room 110 of the motel, Patin took Woods's key ring and went to search that room. The door to room 110 was either open or unlocked, and Patin did not use the room key to gain entry. Nobody was in the room, which was empty and contained no personal belongings. After speaking with the motel desk clerk, Patin went to room 109 and used the key on Woods's key ring to open that door. The key, which did not have a room number on it, fit into the lock and allowed Patin to turn the doorknob. As he did so, a woman opened the door from inside the room. Despite the timing of these events, Patin believed that the key had worked on the door lock.

Patin and his partner searched room 109 and found drugs in several packages: (1) five baggies containing 35 grams of rock cocaine; (2) a small baggie containing 6.97 grams of cocaine base; and (3) 20 baggies containing a total of 4.59 grams of cocaine

base that were placed next to a dozen or so individually-wrapped plastic cups.¹ On a nightstand were a cell phone, \$209 in dollar bills, a razor blade, numerous empty baggies, correspondence from the Department of Motor Vehicles that was addressed to Woods, and a pill bottle with Woods's name on it. Various items of men's clothing were in the closet. There was no women's clothing in the room.

Woods was charged with one count of possessing cocaine base for sale (Health & Saf. Code, § 11351.5) along with various sentencing enhancements and prior conviction allegations.

In addition to the evidence set forth above, Patin testified as an expert witness concerning possession of drugs for sale. Based on his experience and training, Patin concluded that Woods possessed the drugs found in room 109 for sale. The factors that led him to his conclusion were: the large amount of drugs recovered; the cell phone, which drug dealers commonly use to organize and track their sales; the razor blades and empty baggies, which showed he intended to break the large chunks of cocaine base into smaller amounts; the large amounts of cash in various denominations; Woods's prior history as a drug dealer; the absence of any devices for personal use of the drugs; and the fact that Woods was not under the influence when he was arrested.

Woods testified that the \$2,090 in cash he was carrying was what remained after receiving an inheritance of \$6,250 six months earlier. He produced a copy of a check from the lawyer that handled the distribution of those funds. The \$209 in dollar bills found in room 109 was his, but came from his car wash business. Woods produced a business card showing he ran a car wash. He was registered and staying in room 110, and his room key was on a chain with that number stamped on it. A woman named Laina occupied room 109, but she was not the same woman who Deputy Patin found inside room 109. For the past week Woods had been placing certain items in room 109 for safekeeping because the motel's housekeeping staff left the door to his room open. The

¹ Woods stipulated to the testing results for the amount and types of drugs found, including the two small baggies he presumably spit out of his mouth, which contained .34 grams of cocaine base.

\$209 was in room 109 for that reason. He acknowledged that the DMV letter and the pill bottle were also his. However, the rest of his possessions, including his clothes, were still in room 110 when he was arrested. He did not stay in room 109, he was not selling drugs, and he had no knowledge of the drugs found in room 109. He did admit to possession of the small amount of rock cocaine that he tried to conceal in his mouth when he was first stopped by the deputies.

The trial court found Woods guilty, and Woods admitted the truth of the prior conviction allegations contained in the information. He was given a combined state prison sentence of 10 years, including presentence custody credits of 500 days.

Woods contends there was insufficient evidence that he had actual or constructive possession of the drugs because there was insufficient evidence that he occupied or otherwise had dominion and control over room 109. He also contends there was insufficient evidence that he knew the drugs were in that room, or that he had the intent to sell those drugs. Woods challenges the award of custody credits, contending they were miscalculated. Respondent concedes that Woods is entitled to 616 days of credits, while Woods contends the true number is 620 days.

DISCUSSION

1. *The Judgment Is Supported By Substantial Evidence*

The prosecution had the burden of proving that Woods possessed the cocaine base found in room 109 with the intent to sell it and with knowledge of both its presence and illegal character. (*People v. Harris* (2000) 83 Cal.App.4th 371, 374.) Constructive possession occurs when the defendant has control, or the right to control, the contraband. Such possession may be imputed when the contraband is found in a place that is immediately and exclusively accessible to the defendant and subject to his dominion or control, or to his joint dominion and control with someone else. Constructive possession may be shown by circumstantial evidence, and the inference of dominion and control is

easily made when the contraband is found in the defendant's residence. (*People v. Busch* (2010) 187 Cal.App.4th 150, 162.)

Woods contends there is no evidence he had dominion and control over the drugs because he was registered in room 110 and was not staying in room 109. Although the evidence is in conflict, it was more than sufficient to support a finding that room 109 was his residence. Woods testified that he was living at the motel. Deputy Patin testified that he used Woods's room key to unlock the door to that room. Woods claimed his clothes were still in room 110 when Patin searched it, but Patin said that room was empty and devoid of personal belongings. Instead, various items of men's clothing were found in room 109, along with a letter addressed to Woods, a bottle of pills bearing his name, and \$209 in cash that Woods admitted was his.

Based on this evidence, the trial court could easily infer that even though Woods was registered to room 110, he was actually living in room 109. In short, the drugs were found in Woods's residence, giving rise to an inference of constructive possession.

Woods contends that his mere control over the motel room is not enough to show he knew the drugs were there. While he is correct that mere constructive possession without more is not enough to show the requisite knowledge (*People v. Williams* (1971) 5 Cal.3d 211, 216), the required "more" is present in the record. As the court in *People v. Redrick* (1961) 55 Cal.2d 282, pointed out, consciousness of guilt and therefore awareness that the contraband was present can be inferred when the contraband is found with the defendant's personal effects, the defendant gave an innocent explanation that was dubious and could be found intentionally false, or lied about having a roommate who presumably owned the drugs. (*Id.* at pp. 287-288.)

Those factors are present here. The drugs were found among Woods's personal effects – his DMV letter, bottle of pills, bag of cash, and the men's clothing which by reasonable inference belonged to him. He gave a dubious explanation of why some of his effects were in room 109 – that the motel's housekeeping staff left his room door open after cleaning it, which requires the belief that his room was singled out for such treatment. Finally, he claimed that room 109 belonged to Laina, but only men's clothing

and his personal goods were found in that room, making his claim implausible. When combined with his admission that he had been convicted of selling cocaine in the past, we conclude there was ample evidence that Woods knew the cocaine base was in his room.

Finally, he contends there was insufficient evidence he possessed the drugs with the intent to sell them. Intent to sell may be established by circumstantial evidence. (*People v. Harris, supra*, 83 Cal.App.4th at p. 374.) Deputy Patin's expert testimony – which was based on the amount of cocaine base found in Woods's room, as well as the razor, empty baggies, and cell phone, along with Woods's past drug sales activities – was enough to sustain such a finding. (*Id.* at pp. 374-375.)

2. *The Award of Custody Credits Must Be Corrected*

The trial court awarded Woods presentence custody credits of 500 days based on 250 days actually served before sentencing. Woods was arrested in 2010, after Senate Bill No. 18, which amended Penal Code section 4019, took effect. Respondent concedes that pursuant to that amendment, Woods became eligible to earn pre-sentence custody credits at the rate of two days' credit for every two days served. Woods was arrested on March 23, 2010, and released on June 22, 2010, which totals 92 days. He was taken into custody again on July 7, 2010, and held through trial, with his sentencing hearing taking place on February 9, 2011, a total of 218 days. The combined total of those two periods of confinement is 310 days, which, as Woods points out in his reply brief, entitles him to 620 days of custody credits.

DISPOSITION

The judgment is modified to reflect that Woods has earned 620 days of pre-sentence custody credits. The trial court is directed to amend the abstract of judgment to reflect this modification, and then forward a copy of the amended abstract to the Department of Corrections. The modified judgment is affirmed.

RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

GRIMES, J.