Circuit Court for Baltimore City
Case No. 123157002

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1129

September Term, 2023

SHAWN C. SNEED

v.

STATE OF MARYLAND

Berger,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 2, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a bench trial in the Circuit Court for Baltimore City, Shawn C. Sneed, appellant, was convicted of possession of a firearm by a prohibited person, transporting a handgun in a vehicle, and possession of ammunition by a prohibited person following a bench trial. His sole contention on appeal is that there was insufficient evidence to sustain his convictions because, he claims, the State failed to prove that he possessed the loaded handgun that was recovered by the police. For the reasons that follow, we shall affirm.

In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant's convictions, we "review the case on both the law and the evidence[,]" but will not "set aside the judgment . . . on the evidence unless clearly erroneous[.]" Maryland Rule 8–131(c). "We review sufficiency of the evidence to determine 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." *White v. State*, 217 Md. App. 709, 713 (2014) (internal quotation marks and citation omitted).

"[I]n order to support a conviction for a possessory offense, 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.]'" *Jefferson v. State*, 194 Md. App. 190, 214 (2010) (citation omitted). But "[c]ontraband need not be found on a defendant's person in order to establish possession." *Handy v. State*, 175 Md. App. 538, 563 (2007). Instead, possession may be "actual or constructive, joint or individual[.]" *Id.* Nevertheless, a defendant's knowledge of the presence of contraband "is a key element in finding that individual guilty of possessing it[.]" *State v. Suddith*, 379 Md. 425, 432 (2004). The accused "must know of both the presence and the general character or illicit nature of the

substance." *Dawkins v. State*, 313 Md. 638, 651 (1988). Such knowledge "may be proven by circumstantial evidence and by inferences drawn therefrom." *Id*. Four factors are relevant in determining whether evidence is sufficient to support a finding of possession:

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

State v. Gutierrez, 446 Md. 221, 234 (2016) (quotation marks and citation omitted).

Viewed in a light most favorable to the State, the evidence demonstrated that Baltimore City police officers Matthew Banocy and Nevin Nolte were on patrol in a marked police car when they noticed a black Chevrolet Cruz with no front tag. Before they could get close enough to run the vehicle's rear license plate, the vehicle stopped and appellant exited the driver's seat wearing a "dark-colored satchel, like a cross-body satchel." After speaking with a group of people for a short period of time, appellant got back into the vehicle and drove away. Shortly thereafter, the officers stopped the vehicle for making an illegal U-turn. When they activated their lights and sirens, appellant exited the driver's side door and started walking away from the vehicle. The officers "approached" appellant and "told him to stop walking away from a traffic stop." Appellant eventually stopped and the officers told him to sit on the curb while they awaited the arrival of additional units.

When the officers approached the vehicle, they observed a woman sitting in the passenger seat and a bag of marijuana in plain view on the center console. They then

decided to conduct a search of the vehicle, and asked the woman, who was the registered owner of the vehicle, to exit and sit next to appellant.

During the search, the police found a "black satchel laying on the passenger front floorboard[,]" that when they picked it up "had an obvious weight to it." Inside one pocket of the satchel was an unspecified amount of currency, and inside the second pocket was a loaded handgun. Officer Banocy instructed another officer to handcuff appellant, but he did not mention that a handgun had been found. At this point, appellant stated, "it's not mine" and asked Officer Nolte if he could "get you another one," and who he could speak with to "[a]rrange things." Officer Nolte took these statements to mean that appellant "could get us another handgun that day."

Appellant contends that there was insufficient evidence that he possessed the handgun because the vehicle was registered to the passenger and the satchel was found on the passenger floorboard. However, this case is distinguishable from *Taylor v. State*, 346 Md. 452 (1997), the primary case upon which appellant relies. In *Taylor*, the Supreme Court of Maryland held that there was insufficient evidence to sustain Mr. Taylor's convictions for possession of marijuana and paraphernalia where there was no evidence that he had a possessory interest in the hotel room where the drugs were found, "the contraband was secreted in a hidden place *not otherwise shown to be within [his] control[,]*" and another occupant of the hotel room stated that the drugs belonged to him. *Id.* at 459 (emphasis added).

Here, however, the evidence demonstrated that appellant was not only present in the car but was also the driver of the vehicle. And "the status of a person in a vehicle who

is the driver, whether that person actually owns, is merely driving or is the lessee of the vehicle, permits an inference, by a fact-finder, of knowledge, by that person, of contraband found in that vehicle." *State v. Smith*, 374 Md. 527, 550 (2003). To be sure, that inference is weaker in this case as the owner of the vehicle was sitting in the passenger seat. But multiple people may possess the same object at the same time. *See Moseley v. State*, 245 Md. App. 491, 504 (2020) ("To constitute constructive possession, the possession need by no means be exclusive. Joint possession can be just as inculpatory."). And the State did not offer appellant's possessory interest in the vehicle as the only evidence of his constructive possession of the handgun. Rather, the evidence demonstrated that the handgun was found inside a satchel that was in plain view, in close proximity to appellant, and, most importantly, that appeared to be the same satchel that appellant had been wearing on his person just before the stop occurred.

Appellant nevertheless asserts that the passenger could have placed the handgun in the satchel without his knowledge. However, the fact that there are other inferences that could have been made by the trial court is irrelevant in determining the sufficiency of the evidence as the "trial court fact-finder . . . possesses the ability to choose among differing inferences that might possibly be made from a factual situation and this Court must give deference to all reasonable inferences the fact-finder draws, regardless of whether we would have chosen a different reasonable inference." *Suddith*, 379 Md. at 430 (internal quotation marks and citation omitted). Consequently, we hold that there was sufficient

evidence that appellant knowingly possessed the handgun found by the police. The evidence was, therefore, sufficient to sustain his convictions.

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