

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1359

September Term, 2023

PHILIP LEE QUEEN

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: July 5, 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 County, Philip Lee Queen, appellant, was convicted of prohibited possession of ammunition. On appeal, he contends that there was insufficient evidence to sustain his conviction because the State failed to prove that he possessed the ammunition that was recovered by the police. For the reasons that follow, we 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 police executed a warrant targeting appellant at 1103 Queens Purchase Road, Apartment A in Baltimore County. The apartment, which contained one bedroom, was leased to appellant’s mother. However, appellant listed the apartment as his registered address with the Motor Vehicle Administration, and his vehicle was seen at the apartment prior to, and on the day of, the execution of the search warrant. When the police entered the residence, appellant was sleeping in the only bedroom of the apartment. Ammunition was recovered on the bedroom floor, on the bedroom nightstand, underneath the bed, and in a bag on the bedroom floor. No women’s clothing was found in the apartment. Following his arrest, appellant waived his Miranda rights and indicated that he knew the ammunition was “in his apartment.”

Although appellant does not dispute that he was in close proximity to the contraband and that some of the contraband was in plain view, he nevertheless contends that the State “fail[ed] to establish that [he] had any possessory interest in the property” where it was recovered because he was not on the lease. However, the evidence demonstrated that

appellant listed the apartment as his address, parked his car at the apartment, was sleeping in the apartment's only bedroom at the time the warrant was executed, and referred to the apartment as "his apartment" after he was arrested. Based on that evidence, the trial court could reasonably infer that appellant exercised dominion and control over the apartment and the ammunition found in the bedroom. Consequently, we hold that there was sufficient evidence to sustain his conviction.

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