

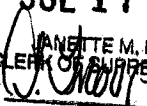
IN THE SUPREME COURT OF THE STATE OF NEVADA

ARTHUR TURNER A/K/A ARTHUR
L. TURNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48977

FILED

JUL 17 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a jury verdict, of one count of trafficking in a controlled substance. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Arthur Turner to serve a prison term of 24 to 72 months.

Turner contends that the evidence presented at trial was insufficient to support his conviction for trafficking in a controlled substance. Turner claims that the jacket that he was wearing when he was arrested belonged to someone else, he was "merely present" when 23.2 grams of cocaine were discovered in the jacket, and something more than mere presence is required to sustain a drug possession conviction.¹

Our review of the record on appeal reveals sufficient evidence to establish Turner's guilt beyond a reasonable doubt as determined by a

¹Turner cites to United States v. Jenkins, 90 F.3d 814 (3rd Cir. 1996); United States v. Mejia, 87 F.3d 454 (11th Cir. 1996), opinion withdrawn and superseded by United States v. Mejia, 97 F.3d 1391 (11th Cir. 1996); United States v. Vasquez-Chan, 978 F.2d 546 (9th Cir. 1992).

rational trier of fact.² To obtain a conviction for level two trafficking, the State must prove that the defendant knowingly or intentionally sold, manufactured, delivered, or brought into this state or was in actual or constructive possession of "14 grams or more, but less than 28 grams" of a Schedule I controlled substance.³ We have previously stated that "possession may be imputed when the contraband is found in a location which is immediately and exclusively accessible to the accused and subject to [his] dominion and control."⁴ Cocaine is a Schedule I controlled substance.⁵

Here, the State presented evidence that Turner was detained after he left an apartment that was under police surveillance. The police searched Turner and found about \$200.00 in his right front pants pocket and 3.4 grams of cocaine in his left front jacket pocket. Turner was arrested and transported to the county jail, where he was searched again and the police discovered an additional 23.2 grams of cocaine in his inside jacket pocket. The arresting officer testified that the average cocaine user carries about 0.2 grams of cocaine on his person; the money found in Turner's pants pocket consisted of six \$20.00 bills, one \$10.00 bill, four \$5.00 bills, and fifty \$1.00 bills; and the combination of a large quantity of

²See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (citing Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

³NRS 453.3385(2).

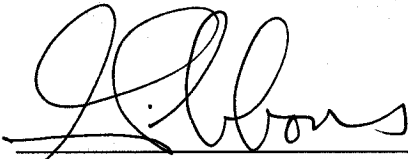
⁴Sheriff v. Steward, 109 Nev. 831, 836, 858 P.2d 48, 51 (1993) (quoting Glispey v. Sheriff, 89 Nev. 221, 223, 510 P.2d 623, 624 (1973)).


⁵NAC 453.510(8).

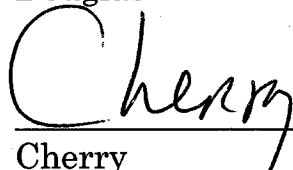
cocaine and the various denominations of currency indicated that Turner was holding the cocaine for sale.

We conclude that a rational juror could reasonably infer from the evidence adduced at trial that Turner was trafficking in a controlled substance.⁶ It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.⁷ Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Stewart L. Bell, District Judge
Paul E. Wommer
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

⁶See NRS 453.3385(2).

⁷See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair, 108 Nev. at 56, 825 P.2d at 573.