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DISTRICT IV

September 16, 2016

To:

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You are hereby notified that the Court has entered the following opinion and order:

2015AP1802-CR

State of Wisconsin v. Cedrick V. Brown (L.C. # 2012CF1477)

Before Lundsten, Sherman, and Blanchard, JJ.

Cedrick Brown appeals a judgment that convicted him of a second or subsequent offense of possessing 200-1000 grams of THC with the intent to deliver, at or near a school, as a repeater and as party to a crime. The sole issue on appeal is the sufficiency of the evidence to support the conviction. After reviewing the record, we conclude at conference that this case is appropriate

for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We affirm for the reasons discussed below.

“In reviewing challenges to the sufficiency of evidence, we give great deference to the trier-of-fact and do not substitute our judgment unless the evidence, viewed most favorably to the verdict, is so lacking in probative value and force that no reasonable fact finder could have found guilt beyond a reasonable doubt.” *State v. Routon*, 2007 WI App 178, ¶17, 304 Wis. 2d 480, 736 N.W.2d 530. As the circuit court properly instructed the jury, it could convict Brown if it found either that Brown had directly committed all the elements of the offense, or that Brown had aided and abetted the commission of the offense by Stanley Thornton (the other alleged party to the crime)—meaning that Brown had been ready and willing to assist Thornton and that Thornton knew of Brown’s willingness to assist. *See* WIS. STAT. § 939.05; WIS JI—CRIMINAL 400 (2005). The State needed to prove that: (1) either Brown or Thornton possessed—that is, exercised individual or joint control over—a substance; (2) the substance was THC; (3) Brown or Thornton knew or believed the substance was THC; (4) Brown or Thornton intended to deliver the THC; (5) the amount of the THC was over 200 grams; and (6) the possession with intent to deliver occurred within 1,000 feet of a school. *See* WIS. STAT. §§ 961.41(1m) and 961.41(1m)(h)2.; 961.495; WIS JI—CRIMINAL 6035 (2010).

Pursuant to a traffic stop, law enforcement officers recovered a green leafy substance that appeared to be marijuana packaged into forty-five individually twisted off sandwich baggies from the center console of a vehicle that Thornton was driving and in which Brown was the

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

passenger. There was a shoebox containing baggies with more than 450 additional grams of marijuana in the backseat of the vehicle, and the odor from the marijuana was apparent. The substance in the baggies tested positive for THC. In addition, officers recovered a scale, cash, additional baggies, and four cell phones from the vehicle, \$343 and a marijuana blunt from Brown's person.

Brown provided a false name during the traffic stop, tried to move over and start the car while Thornton was being questioned, and then fled on foot and was found hiding in a clump of bushes and a small tree half a block away. After his arrest, Thornton told police that Brown had transferred "all the property" from his own car into Thornton's car earlier in the day.

Brown does not dispute that there was more than 200 grams of marijuana in the vehicle, that the marijuana was packaged for sale, or that the traffic stop was made within 1,000 feet of a school. He argues that the evidence shows no more than that he accepted a ride from a friend who had a large amount of drugs in his car, and is insufficient to prove that Brown himself exercised control over the marijuana, or knew about and was ready to assist Thornton's plan to distribute the marijuana. We disagree.

Based on Thornton's statement to the police, the jury could reasonably infer that Brown himself had brought the marijuana into Thornton's car with the intent to sell it. Additionally or alternatively, the jury could infer from Brown's provision of a false name to police, his flight from the traffic stop, and the amount of cash on his person that he was fully aware of and involved in Thornton's drug-dealing activity.

IT IS ORDERED that the judgment of conviction is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals