COURT OF APPEALS OF VIRGINIA

Record No. 0626-25-1

MARVIN ELI BAZEMORE, JR.
v.
COMMONWEALTH OF VIRGINIA

Present: Chief Judge Decker, Judges Malveaux and Causey

Argued at Williamsburg, Virginia

Opinion Issued October 20, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF NORFOLK
Everett A. Martin, Judge

David C. Reinhardt (Aaron M. Vandenbrook; Reinhardt Vandenbrook, PLLC, on brief), for appellant.

Craig W. Stallard, Senior Assistant Attorney General (Jason S. Miyares,[1] Attorney General; John A. Fisher, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE MARY BENNETT MALVEAUX

Following a bench trial, the trial court convicted Marvin Eli Bazemore, Jr. of possession of a Schedule I/II controlled substance with the intent to distribute, in violation of Code § 18.2-248(C), and possession of a firearm while in possession of the same controlled substance, in violation of Code § 18.2-308.4(B). On appeal, Bazemore challenges the sufficiency of the evidence to support his convictions and argues that evidence concerning the controlled substance was not supported by a sufficient chain of custody. Finding no error, we affirm the trial court.

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

BACKGROUND

We recite the facts "in the 'light most favorable' to the Commonwealth, the prevailing party in the trial court." *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022) (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)). In doing so, we discard any evidence that conflicts with the Commonwealth's evidence, and regard as true all the credible evidence favorable to the Commonwealth and all inferences that can be fairly drawn from that evidence. *Cady*, 300 Va. at 329.

The Offense

Officers Labat and Bender were patrolling in a marked cruiser near a 7-Eleven in Norfolk. The two observed a blue BMW that had pulled up to the store's gas pumps and noticed that the passenger "jumped out of the vehicle" and "ran very quickly inside" the store. The driver in the BMW then drove off "immediately." Officer Bender tried to talk to the passenger but could not locate them inside the store. The officers began to patrol again and soon spotted the same BMW. Bazemore was sitting in the BMW's driver's seat with his legs hanging out of the car. While Officer Labat had been unable to see who was driving the vehicle earlier at the 7-Eleven, he "immediately recognized Mr. Bazemore" from photographs he had observed and prior conversations with other officers before this encounter. When Officer Bender saw the BMW again, he recognized that it was "the same vehicle and the same driver, Marvin Bazemore" that they had seen at the 7-Eleven. The person who the officers had seen entering the 7-Eleven was standing near the car, which was parked in front of a driveway in a residential neighborhood.

As Officers Bender and Labat approached the vehicle, Bazemore, the only occupant of the BMW at that time, got out of car and began to walk away. Officer Labat "heard the vehicle lock from the beeps from the lock of the car" as Bazemore walked away. Officer Bender

"yelled" to Bazemore to get his attention, but Bazemore ignored him and continued walking. The passenger remained, and Officer Bender spoke with him while Officer Labat used a flashlight to look inside the vehicle. Through the windows, Officer Labat observed what appeared to be a bag of marijuana on the driver's side floorboard. Officer Labat also saw a digital scale on the floorboard of the passenger's side front seat, and various small-denomination bills throughout the vehicle. He also saw what he believed to be a firearm, but he later acknowledged that it was almost completely hidden under the driver's seat.

The officers allowed the passenger to depart in his own vehicle and had the BMW towed. They obtained a search warrant for the vehicle. During the search of the vehicle, the officers found a firearm under the driver's seat, a second digital scale and a large bag of a "white, rocklike substance" in the center console, and a smaller bag of a similar substance in the trunk. They also found a black backpack from the back seat passenger side floorboard which held a plastic bag containing more than $10,000, Bazemore's driver's license, two credit cards bearing Bazemore's name, and a recognizance bond order signed by Bazemore about a month earlier. The backpack also contained two BMW key fobs, one of which operated the vehicle. The officers found a "slip" for window tinting, bearing the name "Marvin B.," in the car's glovebox.

The officers collected the evidence and transported it to the precinct from the tow lot. At the precinct, they weighed the suspected narcotics, finding the larger bag to weigh 33.1 grams, and the smaller bag weighing 6.2 grams. The officers did not open or comingle the substances. After the substances were weighed, Officer Bender placed them in a manila envelope, which was then sealed and placed into an evidence locker. Officer Bender "believe[d]" that the two bags were sealed in separate manila envelopes but could not recall with certainty whether it was "one manila envelope or two manila envelopes." Officer Labat "witnessed [Officer Bender] handle [the evidence] all the way up until it was put into the First Precinct evidence locker." These

lockers were only accessible by officers, and access to them was monitored by an evidence officer who would "check[] the log" containing information about the evidence. Officer Bender then filled out a request for laboratory examination ("RFLE") form under Officer Labat's supervision. The RFLE form listed a specific case number associated with the evidence submitted for examination.

Julia Clayton was listed on the RFLE form as the "submitting officer" who transported the narcotics from the precinct to the Department of Forensic Science ("DFS"). Officer Labat testified that Clayton was an evidence technician and was responsible for transporting evidence from the precinct lockers. At the time of trial, Clayton was no longer employed by the department and could not be located to testify.

Events at Trial

Jennifer Bennetti, a forensic scientist employed by DFS, was qualified as an expert in chemical analysis of narcotics. She testified that "normally" evidence is submitted to DFS evidence custodians and that evidence is stored in a vault until she was ready to test the items. In this case, she retrieved two sealed manila envelopes, each containing a bag of the white, rocklike substance. Bennetti weighed the larger bag of evidence without its packaging material and found it to weigh 29.57 grams. She included the packaging material when weighing the smaller bag, finding the total combined weight to be 6.17 grams. She testified that there often is a "slight discrepancy" between what the police find narcotics to weigh and her calculation of the weight of substances submitted to her. Bennetti attributed the discrepancy in total weight to her more carefully calibrated instruments, and the exclusion of the larger bag when weighing that item. She explained that her decision to exclude the weight of the larger bag was due to the limitations of her weighing equipment, as there "appeared to be a significant amount of material that would be over [the] weight threshold" and she did not "want to report a weight that includes packaging

that would put it over" that threshold. After an analysis of the white substances, Bennetti determined that the contents of the bags were a Schedule II controlled substance, cocaine.

The certificate of analysis showing these results includes the statement, "Evidence Submitted By: Julia Clayton," and contains the same case number as the RFLE form.

Bazemore objected to the admission of the certificate of analysis, arguing there was a break in the chain of custody because Clayton was not present to testify to her handling of the evidence. The Commonwealth argued that the evidence had been received by DFS in sealed envelopes, and Bazemore responded that "[w]e don't know that it arrived at the lab in the same condition as when it was left in the locker." Bazemore asserted that Bennetti was unable to testify that what she tested "was the same item that was put there by the officer" and that, as such, it did not matter that the evidence was received sealed.

The trial court ruled that the Commonwealth had sufficiently established the chain of custody as to the narcotics. In so doing, it noted that Bennetti's description of the evidence matched the photos taken by Officers Labat and Bender, that the quantity of the drugs weighed by the police roughly matched that of the weight calculated by Bennetti, and that the envelopes were unopened when Bennetti received them.

Officer Labat was qualified as an expert in "the packaging and distribution and use of narcotics." He testified that scales were used by drug dealers to weigh the amount to be sold. He also explained that the cash found throughout the car was consistent with the type of small transactions involved in the trade of narcotics. He testified that drug dealers often carry weapons and that the amount of drugs found in the vehicle was inconsistent with personal use.

Bazemore moved to strike the evidence, arguing that he was merely in proximity to the drugs and gun but had not possessed them. He also argued that the evidence had not established he was the driver of the vehicle and that, as such, there was "no reason to believe he [was] aware

of anything that's inside [the vehicle]." He noted that it was nighttime and that the firearm was concealed out of view.

The trial court denied the motion to strike the possession charges.[2] The court observed that Bazemore's conduct as police approached was lawful but suspicious and noted that people rarely leave such large amounts of cash in "other people's cars or in places they don't have access to." It then found him guilty of possession of the narcotics and of the firearm. This appeal followed.

ANALYSIS

Chain of Custody

Bazemore argues that the trial court erred in admitting the certificate of analysis concerning the cocaine found in the BMW because the chain of custody for the cocaine was not sufficiently established.

"The determination on a chain of custody challenge lies within the trial court's broad discretion and will not be overturned on appeal absent an abuse of that discretion." *Pope v. Commonwealth*, 60 Va. App. 486, 511 (2012). Under this standard, "only in those cases where 'reasonable jurists could not differ' has an abuse of discretion occurred." *Campos v. Commonwealth*, 67 Va. App. 690, 702 (2017) (quoting *Thomas v. Commonwealth*, 44 Va. App. 741, 753, *adopted upon reh'g en banc*, 45 Va. App. 811 (2005)).

"The purpose of the chain of custody rule is to establish that the evidence obtained by the police was the same evidence tested." *Jeter v. Commonwealth*, 44 Va. App. 733, 737 (2005) (quoting *Robertson v. Commonwealth*, 12 Va. App. 854, 857 (1991)). "Accordingly, to satisfy the chain of custody requirement, the proponent of the evidence must show 'with reasonable

[2] Bazemore had also been charged with carrying a concealed weapon, in violation of Code § 18.2-308(A). The trial court granted the motion to strike as to this offense.

certainty that the item [has] not been altered, substituted, or contaminated prior to analysis, in any way that would affect the results of the analysis.'" *Id.* (alteration in original) (quoting *Crews v. Commonwealth*, 18 Va. App. 115, 119 (1994)).

"In proving the chain of custody, '[t]he Commonwealth must . . . account for every "vital link in the chain of possession."'" *Hargrove v. Commonwealth*, 53 Va. App. 545, 554 (2009) (alterations in original) (quoting *Alvarez v. Commonwealth*, 24 Va. App. 768, 777 (1997)). But "[a] court need not hear . . . from every witness who physically handled the samples for the [evidence] to be admissible." *Anderson v. Commonwealth*, 48 Va. App. 704, 717 (2006), *aff'd on other grounds*, 274 Va. 469 (2007). Rather, the Commonwealth "need only provide 'reasonable assurance' that the evidence obtained by the police was the same evidence tested." *Id.* (quoting *Vinson v. Commonwealth*, 258 Va. 459, 469 (1999)). "[W]here there is mere speculation that contamination or tampering could have occurred, it is not an abuse of discretion to admit the evidence and let what doubt there may be go to the weight of the evidence." *Jeter*, 44 Va. App. at 739 (quoting *Reedy v. Commonwealth*, 9 Va. App. 386, 391 (1990)).

Bazemore argues that the Commonwealth failed to account for a vital link in the chain of possession of the cocaine because the evidence did not establish who submitted the evidence to DFS and how the evidence was handled while it was transported.[3] We disagree, and instead

[3] Bazemore makes a variety of additional arguments on brief as to why the chain of custody was not sufficiently established in this case: that there was no testimony that the drugs were placed into an evidence bag and sealed when discovered by the officers; that there was no testimony regarding how the drugs were placed in evidence bags; that Officer Bender was unsure about whether he had placed the bags into one or two manila envelopes; and that the RFLE form was filled out by Officer Labat, but the only testimony about filling out the form was provided by Officer Bender. At trial, however, Bazemore argued only that Clayton was a vital link in the chain of custody and that without her testimony, the certificate of analysis was inadmissible. "No ruling of the trial court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling, except for good cause shown or to enable this Court to attain the ends of justice." Rule 5A:18. "Specificity and timeliness undergird the contemporaneous objection rule, animate its highly practical purpose, and allow the rule to resonate with simplicity." *Bethea v. Commonwealth*, 297 Va. 730, 743 (2019).

conclude that the evidence in the record demonstrates with reasonable assurance that the trial court did not abuse its discretion in finding that the Commonwealth established the chain of custody for the tested contraband.

Here, the evidence established that, upon searching the vehicle, Officers Labat and Bender found two bags containing a white substance in the BMW. The officers transported the narcotics to the police precinct. At the precinct, they weighed the suspected narcotics. The larger bag weighed 33.1 grams, and the smaller bag weighed 6.2 grams. The officers did not open or comingle the substances. After the substances were weighed, Officer Bender placed them in manila envelopes; while he could not recall whether the items were placed in one or separate envelopes, he believed that they were packaged in two separate envelopes. He did specifically testify that the envelopes were sealed and then placed into an evidence locker which was accessible only by other officers. Officer Bender then filled out a RFLE form, which included a specific case number associated with the evidence submitted for examination. The RFLE form listed Julia Clayton as the "submitting officer" who transported the narcotics from the precinct to DFS.

Bennetti, a forensic scientist employed by DFS, retrieved two sealed manila envelopes, each containing a bag of the white, rocklike substance. Bennetti weighed the larger bag of evidence without its packaging material and found it to weigh 29.57 grams. She included the packaging material when weighing the smaller bag, finding the total combined weight to be 6.17

"Procedural-default principles require that the argument asserted on appeal be the same as the contemporaneous argument at trial." *Id.* "[N]either an appellant nor an appellate court should 'put a different twist on a question that is at odds with the question presented to the trial court.'" *Id.* at 744 (quoting *Commonwealth v. Shifflett*, 257 Va. 34, 44 (1999)). "[M]aking one specific argument on an issue does not preserve a separate legal point on the same issue for [appellate] review." *Hicks v. Commonwealth*, 71 Va. App. 255, 266 (2019) (second alteration in original) (quoting *Johnson v. Commonwealth*, 58 Va. App. 625, 637 (2011)). Accordingly, pursuant to Rule 5A:18, we do not consider Bazemore's newly crafted arguments on appeal.

grams. Bennetti attributed the discrepancy in total weight from the officers' weighing and her weighing of the substances to her more carefully calibrated instruments, and the exclusion of the larger bag when weighing that item. Bennetti determined that the substances in the bags were cocaine. The certificate of analysis, stating that the evidence was submitted by Julia Clayton, contained the same case number as the RFLE form.

The evidence established that the officers weighed and catalogued the suspected narcotics before storing the evidence in a secure locker. From there, the substances were transported to DFS, where they arrived unopened in sealed envelopes. The weight of the material analyzed was almost identical to the weights of the substances collected by the officers. While Clayton was not present at trial to testify as to how she transported the material to DFS, this "gap" only went to the weight of the evidence, not its admissibility. "[G]aps in the chain [of custody] normally go to the weight of the evidence rather than its admissibility." *Pope*, 60 Va. App. at 511 (second alteration in original) (quoting *Aguilar v. Commonwealth*, 280 Va. 322, 332-33 (2010)). Because Bazemore simply identified an evidentiary "gap" in the chain of custody instead of demonstrating any lack of assurance regarding the preservation of the evidence or identifying a missing "vital link" in the chain of custody, *Hargrove*, 53 Va. App. at 554 (quoting *Alvarez*, 24 Va. App. at 777), we find that the trial court did not abuse its discretion in overruling his motion to exclude the analysis of the cocaine.

Sufficiency of the Evidence

Bazemore also challenges the sufficiency of the evidence in each of his convictions.

"When an appellate court reviews the sufficiency of the evidence underlying a criminal conviction, its role is a limited one." *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024). "The judgment of the trial court is presumed correct and will not be disturbed unless it is 'plainly wrong or without evidence to support it.'" *Pijor v. Commonwealth*, 294 Va. 502, 512 (2017)

(quoting Code § 8.01-680). "Thus, 'it is not for this [C]ourt to say that the evidence does or does not establish [the defendant's] guilt beyond a reasonable doubt because as an original proposition it might have reached a different conclusion.'" *Commonwealth v. Barney*, 302 Va. 84, 97 (2023) (alterations in original) (quoting *Cobb v. Commonwealth*, 152 Va. 941, 953 (1929)). The only relevant question for this Court on review "is, after reviewing the evidence in the light most favorable to the prosecution, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* (quoting *Sullivan v. Commonwealth*, 280 Va. 672, 676 (2010)). "If there is evidentiary support for the conviction, 'the reviewing court is not permitted to substitute its own judgment, even if its opinion might differ from the conclusions reached by the finder of fact at the trial.'" *McGowan v. Commonwealth*, 72 Va. App. 513, 521 (2020) (quoting *Chavez v. Commonwealth*, 69 Va. App. 149, 161 (2018)).

"It is firmly established that '[c]ircumstantial evidence is competent and is entitled to as much weight as direct evidence provided that the circumstantial evidence is sufficiently convincing to exclude every reasonable hypothesis except that of guilt.'" *Kelley v. Commonwealth*, 69 Va. App. 617, 629 (2019) (alteration in original) (quoting *Pijor*, 294 Va. at 512). "Circumstantial evidence is not 'viewed in isolation' because the 'combined force of many concurrent and related circumstances, each insufficient in itself, may lead a reasonable [fact finder]' to conclude beyond a reasonable doubt that a defendant is guilty." *Rams v. Commonwealth*, 70 Va. App. 12, 27 (2019) (alteration in original) (quoting *Muhammad v. Commonwealth*, 269 Va. 451, 479 (2005)).

Code § 18.2-248(A) makes it unlawful for a "person to . . . possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance." In turn, Code § 18.2-248(C) provides the range of penalties in circumstances where the drug possessed is a Schedule I or II substance such as cocaine. Just as it is illegal to possess a

controlled substance, it is also "unlawful for any person unlawfully in possession of a [Schedule I or II] controlled substance . . . to simultaneously with knowledge and intent possess any firearm on or about his person." Code § 18.2-308.4(B).

"Where the General Assembly uses the word 'possess,' Virginia courts have typically held that proof of actual or constructive possession are both permissible." *Hunter v. Commonwealth*, 56 Va. App. 50, 58 (2010). "Indeed our Supreme Court has stated that '[a] well-settled principle of our jurisprudence is that a conviction for unlawful possession of a firearm or a controlled substance may be based solely on evidence of constructive possession.'" *Id.* (alteration in original) (quoting *Wright v. Commonwealth*, 278 Va. 754, 759 (2009)).

"Establishing constructive possession requires proof 'that the defendant was aware of both the presence and character of the [item] and that it was subject to his dominion and control.'" *Watts v. Commonwealth*, 57 Va. App. 217, 232-33 (2010) (alteration in original) (quoting *Powers v. Commonwealth*, 227 Va. 474, 476 (1984)). "[T]he Commonwealth must present evidence of acts, statements, or conduct by the defendant or other facts and circumstances proving that the defendant was aware of the presence and character of the [contraband] and that the [contraband] was subject to his dominion and control." *Smallwood v. Commonwealth*, 278 Va. 625, 630 (2009) (quoting *Bolden v. Commonwealth*, 275 Va. 144, 148 (2008)). "Whether evidence is sufficient to prove constructive possession 'is largely a factual' question and requires circumstantial proof 'that the defendant was aware of the presence and character of the [contraband] and that the [contraband] was subject to his dominion and control." *McArthur v. Commonwealth*, 72 Va. App. 352, 368 (2020) (quoting *Smallwood*, 278 Va. at 630).

Bazemore argues the evidence here did not establish that he had possession, either actual or constructive, of the contraband at issue. Instead, he asserts, the Commonwealth only demonstrated his "proximity" to the cocaine and firearm and did not establish that he was aware

of the presence and character of the items, nor that the items were subject to his dominion and control. We disagree, as the evidence showed that he had constructive possession of both items.

Turning first to the cocaine, the evidence showed that Bazemore was the driver of a BMW where the cocaine was discovered. While he was seen driving with a passenger at the 7-Eleven, at the time that Officers Bender and Labat found the BMW again, the passenger was standing outside of the vehicle and Bazemore was the sole occupant of the vehicle. Although not in plain view in Bazemore's car, the cocaine was found by the police in the center console next to the driver's seat where Bazemore had been sitting. While "mere occupancy and proximity . . . are insufficient standing alone to prove a defendant's guilty knowledge of illegal drugs," they are "factors to be considered among the totality of the circumstances." *Yerling v. Commonwealth*, 71 Va. App. 527, 533 (2020).

Further, items found in the vehicle indicated that Bazemore's occupancy of it was not of a short duration. The officers found a "slip" for window tinting, bearing the name "Marvin B.," in the car's glovebox. And a black backpack found on the back seat passenger's side floorboard contained Bazemore's driver's license, two credit cards bearing Bazemore's name, a recognizance bond order signed by Bazemore about a month earlier, and a BMW key fob which operated the vehicle. The trial court could have reasonably found from this evidence that the backpack belonged to Bazemore and that he had a key to the vehicle, demonstrating that he was not just a mere temporary driver of the vehicle but rather a long-standing user of it.

In addition, when the officers approached the car, Bazemore ignored Officer Bender's attempt to get his attention and instead left the area. *See Ricks v. Commonwealth*, 39 Va. App. 330, 335 (2002) (noting that "any flight at a time when it may be to avoid arrest, prosecution, or confinement tends to show a consciousness of guilt" (quoting *Langhorne v. Commonwealth*, 13

Va. App. 97, 103 (1991))). The trial court was free to infer that Bazemore left the area after police arrived because he knew the vehicle contained cocaine.

This Court has also found that drugs are not likely to be accidentally placed in an area, concluding that "settled principles provide that people do not relinquish control of items of value like drugs or leave them in places where others might find them." *Watts*, 57 Va. App. at 233; *see also Ward v. Commonwealth*, 47 Va. App. 733, 753 n.4 (2006) ("Our cases recognize that drugs are a commodity of significant value, unlikely to be abandoned or carelessly left in an area."). A rational fact finder could infer that the drugs were not carelessly left in the vehicle by someone other than Bazemore.

In total, this evidence—Bazemore's occupancy of the vehicle, his proximity to two bags of cocaine, especially the larger bag in the center console, and his leaving the area as the officers arrived—could lead a rational fact finder to conclude that he was aware of the nature and character of the substances in the bag. And the evidence established that the cocaine was subject to Bazemore's dominion and control. Not only did a backpack with many items belonging to Bazemore contain a set of keys to the BMW, but Bazemore himself locked the vehicle as he walked away from it. *See Jetter v. Commonwealth*, 17 Va. App. 745, 747 (1994) ("[A]ppellant's possession of the car keys is significant evidence from which, when considered with the other evidence, it can be inferred that the drugs were subject to his dominion and control.").

Much of the same evidence supporting the finding that Bazemore was aware of the presence and character of the cocaine, and that it was subject to his dominion and control, also compels the conclusion that he constructively possessed the firearm. *See Garrick*, 303 Va. at 183 (evaluating possession of a firearm and possession of a controlled substance convictions under same constructive possession principles). Bazemore's occupancy and control of the vehicle, his proximity to the firearm, and his leaving the area as the officers arrived, when

viewed as a whole, indicate that he was aware of the firearm's presence and that he had control over it. In addition, the officers found a digital scale on the floorboard of the passenger's side front seat, various small-denomination bills throughout the vehicle, and another set of digital scales in the center console. Officer Labat also testified that drug dealers often carry weapons and that the amount of drugs found in the vehicle was inconsistent with personal use. Our Court has recognized that there is a well-established relationship between guns and drugs. *See, e.g.*, *Thomas*, 44 Va. App. at 755 (noting that "[g]uns are the 'tools of the trade' in the underground drug world" (quoting *United States v. White*, 875 F.2d 427, 433 (4th Cir. 1989))). "While not alone dispositive, evidence linking a defendant to drug distribution may be considered as one factor in determining whether he may have had a motive to possess a firearm." *Id.* Accordingly, we conclude that the circumstantial evidence, viewed in total, established that Bazemore constructively possessed the firearm.

Because the Commonwealth's evidence was sufficient to prove that Bazemore constructively possessed the cocaine and the firearm found in the vehicle, we reject his challenge to the trial court's denial of his motions to strike the evidence.

CONCLUSION

For these reasons, the trial court's judgment is affirmed.

Affirmed.