COURT OF APPEALS OF VIRGINIA

Record No. 1057-25-1

CHARLES MICHAEL FORD
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Beales, White and Duffan

Opinion Issued October 13, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE
Rufus A. Banks, Jr., Judge

(Charles L. Bashara; Bashara & Hubbard PLLC, on brief), for appellant.

(Jason S. Miyares,[1] Attorney General; Tanner M. Russo, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE KEVIN M. DUFFAN

The circuit court convicted Charles Michael Ford of possession of a firearm by a violent felon and carrying a concealed weapon. It sentenced him to 5 years and 60 days' incarceration, with 60 days suspended. On appeal, Ford argues that the circuit court erred by finding the evidence sufficient to support the convictions. We disagree and affirm the circuit court's judgment.[2]

* 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.

[2] Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because "the dispositive issue or issues have been authoritatively decided, and the appellant has not argued that the case law should be overturned, extended, modified, or reversed." *See* Code § 17.1-403(ii)(b); Rule 5A:27(b).

BACKGROUND

"We recite the facts in the light most favorable to the Commonwealth, the prevailing party below." *Johnson v. Commonwealth*, 85 Va. App. 257, 266 (2025) (quoting *Camann v. Commonwealth*, 79 Va. App. 427, 431 (2024) (en banc)). "Doing so requires that we 'discard' the defendant's evidence when it conflicts with the Commonwealth's evidence, 'regard as true all the credible evidence favorable to the Commonwealth,' and read 'all fair inferences' in the Commonwealth's favor." *Id.* (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)).

While on patrol around 11:10 p.m., Chesapeake Police Officers Felix Feliz-Rodriguez and Kenneth Krogman saw a car with expired license plates disregard stop signs and drive through two intersections. The car pulled over after the officers turned their blue lights on. Feliz-Rodriguez approached the car's driver's side, and Krogman approached the passenger side. Robert Edmonds was driving, while Ford rode in the front passenger seat. Krogman asked for Ford's identification. When Ford reached for his wallet, Feliz-Rodriguez saw the barrel of a pistol under Ford's left buttock. Krogman also saw the gun under Ford's left buttock. Krogman asked Ford to step out of the car, and Krogman picked up the gun off the passenger seat. Ford was arrested for possession of a firearm by a violent felon and carrying a concealed firearm.

At trial, the parties stipulated that the gun recovered was a nine-millimeter pistol in working condition. The Commonwealth also introduced a sentencing order showing that Ford had previously been convicted of malicious wounding. Feliz-Rodriguez testified that Ford was sitting directly on top of the gun. He and Krogman separately testified that nothing was between Ford's buttocks and the gun before Ford exited the car. Krogman stated that it was "plain as day" that what Ford had been sitting on was a gun because once he got out of the car, nothing was covering it. Ford did not provide Krogman with a concealed carry permit. The circuit court

viewed Feliz-Rodriguez's body-worn camera footage, which showed a gun lying on the passenger seat of the car after Ford had stepped out.

At the conclusion of the Commonwealth's evidence, Ford moved to strike, arguing that he did not know about or exercise dominion and control over the gun. Ford contended that Edmonds owned the gun, the officers were shining flashlights into the car when they saw it on the passenger seat, and no fingerprint or DNA evidence tied him to the gun. The circuit court denied the motion. Ford presented no evidence and renewed his motion to strike on the same grounds. The circuit court denied the motion and convicted Ford of possession of a firearm by a violent felon and carrying a concealed firearm. Ford appeals.

ANALYSIS

On appeal, Ford's three assignments of error boil down to two arguments. The first argument is that the Commonwealth failed to prove that Ford knew of the gun's presence and thus the evidence was not sufficient to prove he knowingly possessed a firearm. The second argument, which flows from the first, is that the evidence was not sufficient to prove that Ford carried a concealed weapon. We disagree with both.

When analyzing the sufficiency of the evidence in a conviction, our role is "limited," and "[t]he only relevant question is . . . whether *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Commonwealth v. Wilkerson*, 304 Va. 92, 100 (2025) (alterations in original) (quoting *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024)). Thus, if "the evidence and the supporting inferences are 'sufficient to support the conviction'" our inquiry ends because we are "not permitted to substitute [our] own judgment for that of the trier of fact, even if [our] opinion might differ from the conclusions reached by the trier of fact." *Garrick*, 303 Va. at 182 (quoting *Jordan v. Commonwealth*, 286 Va. 153, 156-57 (2013)).

"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)).

I. The evidence was sufficient to convict Ford of possession of a firearm by a violent felon.

It is unlawful for "any person who has been convicted of a felony . . . to knowingly and intentionally possess or transport any firearm or ammunition for a firearm." Code § 18.2-308.2(A). Any person "who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § 17.1-805 shall be sentenced to a mandatory minimum term of imprisonment of five years." *Id.* Malicious wounding is classified as a violent felony under Code § 17.1-805(C). Because Ford does not dispute that he was previously convicted of malicious wounding, the only issue is whether he possessed the gun in Edmonds's car.

"A conviction for the unlawful possession of a firearm can be supported exclusively by evidence of constructive possession; evidence of actual possession is not necessary." *Redmond v. Commonwealth*, 57 Va. App. 254, 264 (2010) (quoting *Smallwood v. Commonwealth*, 278 Va. 625, 630 (2009)). "Constructive possession may be established by 'evidence of acts, statements, or conduct of the accused or other facts or circumstances which tend to show that the defendant was aware of both the presence and the character of the [firearm] and that it was subject to his dominion and control.'" *Hall v. Commonwealth*, 69 Va. App. 437, 448 (2018) (quoting *Logan v. Commonwealth*, 19 Va. App. 437, 444 (1994) (en banc)).

The appellate "inquiry does not distinguish between direct and circumstantial evidence, as the fact finder itself 'is entitled to consider all of the evidence, without distinction, in reaching its determination.'" *Garrick*, 303 Va. at 183 (quoting *Commonwealth v. Moseley*, 293 Va. 455, 463 (2017)). Although a "single piece of evidence may [not] be sufficient, the combined force of many concurrent and related circumstances . . . may lead a reasonable mind irresistibly to a conclusion." *Id.* at 184 (alterations in original) (quoting *Moseley*, 293 Va. at 463). Proximity to the firearm "is a circumstance probative of possession and may be considered as a factor in determining whether the defendant possessed the firearm." *Womack v. Commonwealth*, 82 Va. App. 289, 296 (2024) (quoting *Bolden v. Commonwealth*, 275 Va. 144, 148 (2008)).

Here, officers found Ford sitting directly on top of the nine-millimeter pistol. Nothing separated Ford's person from the gun, which provided the circuit court with strong evidence of proximity. After he exited the car, nothing covered it on the seat he had just occupied—it was a gun "plain as day." Considering the "combined force" of these "concurrent and related circumstances," the circuit court had sufficient evidence to conclude that Ford knew the gun was present and that it was subject to his dominion and control. *Garrick*, 303 Va. at 184 (citation omitted). In addition, Ford's statements made clear that he knew the object was a gun. These facts could have made a case for actual possession of the firearm, but there could be no legitimate question that he constructively possessed it. *Id.* at 183; *Hall*, 69 Va. App. at 448; *cf. Haskins v. Commonwealth*, 44 Va. App. 1, 10-11 (2004) (holding that a defendant possessed a bag of drugs he had been sitting on despite his disavowal of knowledge of the bag).

Ford counters that Edmonds owned the gun. But ownership is not "the vital issue." *Smallwood*, 278 Va. at 631 (quoting *Burnette v. Commonwealth*, 194 Va. 785, 792 (1953)). Indeed, the statute bars possession—a much broader category than ownership. *See id.* Ford also contends that the officers could only see the gun because of their flashlights, and therefore, that

Ford himself could not have seen the gun when he first entered the car. For this theory, Ford relies on *Coward v. Commonwealth*, 48 Va. App. 653 (2006). In that case, the defendant was found not to be in possession of the drugs at issue because the drugs were sitting on the console of the vehicle and were not visible without the extra lighting. *Id.* at 660. Therefore, this Court found that Coward reasonably was not aware of the drugs. *Id.* *Coward*'s reasoning, however, does not apply here. Even if Ford did not see the gun before entering the car, he was sitting directly on top of it, so the circuit court reasonably could have concluded that Ford felt it and was aware of it. *See Haskins*, 44 Va. App. at 11. His argument that the officers did not recover fingerprints or DNA evidence from the gun is also unavailing, because there is no rule of law requiring that circumstantial evidence must include biological evidence.

II. The evidence was sufficient to convict Ford of carrying a concealed weapon.

It is unlawful for an individual to carry a pistol "about his person" when "hidden from common observation." Code § 18.2-308(A). This definition has two elements. The first is whether the pistol is on the defendant's person. And the second is whether the pistol was hidden from common observation.

A weapon is "about [his] person" when it is "so connected with the person as to be readily accessible for use or surprise if desired." *Schaaf v. Commonwealth*, 220 Va. 429, 430 (1979) (quoting *Sutherland v. Commonwealth*, 109 Va. 834, 835 (1909)). "Judicial use of the term 'readily' simply recognizes that the availability contemplated by the statute means 'in a ready manner' or 'without much difficulty.'" *Hunter v. Commonwealth*, 56 Va. App. 50, 64 (2010) (quoting *Watson v. Commonwealth*, 17 Va. App. 124, 127 (1993)); *see also Myers v. Commonwealth*, 299 Va. 671, 677 (2021) (noting that firearms "within arm's reach" have consistently been found to be "about his person").

A weapon is "hidden from common observation" when it "is observable but [has a] deceptive appearance [that] disguise[s its] true nature," Code § 18.2-308(A), or "when it is 'hidden from all except those with an unusual or exceptional opportunity to view it,'" *Clarke v. Commonwealth*, 32 Va. App. 286, 303 (2000) (quoting *Winston v. Commonwealth*, 26 Va. App. 746, 756 (1998)).

Here, the Commonwealth produced sufficient evidence to support the conviction. For the first element, Ford was sitting directly on top of the gun, so the gun was "within arm's reach," *Myers*, 299 Va. at 677, and he could have equipped it "without much difficulty," *Hunter*, 56 Va. App. at 64. As a result, the gun was "readily accessible" to Ford and thereby "about [his] person." *Schaaf*, 220 Va. at 430. For the second element, the officers could not see the gun when they approached the car. Only when Krogman asked for Ford's identification, and Ford reached for his wallet, did they have the "unusual or exceptional opportunity" to see the gun. *Clarke*, 32 Va. App. at 303. The gun was therefore "hidden from common observation." Code § 18.2-308(A). Thus, the evidence was sufficient for the circuit court to conclude that the gun Ford possessed, as demonstrated above, was both about his person and hidden from common view.

CONCLUSION

Our role on appeal is "limited." *Wilkerson*, 304 Va. at 100 (quoting *Garrick*, 303 Va. at 182). We look only to "whether *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* If "the evidence and the supporting inferences are 'sufficient to support the conviction'" our inquiry ends. *Garrick*, 303 Va. at 182 (quoting *Jordan*, 286 Va. at 156-57). Here there was sufficient evidence for the circuit court to conclude

that (1) Ford, who was previously convicted of a violent felony, possessed a firearm; and (2) Ford carried a concealed firearm. Accordingly, we affirm the circuit court's judgment.

Affirmed.