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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-49

Filed 19 December 2023

Chatham County, Nos. 19 CRS 050643; 050644; 050645; 050646

STATE OF NORTH CAROLINA

v.

ANTHONY WAYNE YATES

Appeal by Defendant from Judgments entered 25 April 2022 by Judge Craig Croom in Chatham County Superior Court. Heard in the Court of Appeals 19 September 2023.

*Attorney General Joshua H. Stein, by Assistant Attorney General Milind K. Dongre, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Candace Washington, for Defendant.*

HAMPSON, Judge.

**Factual and Procedural Background**

Anthony Wayne Yates (Defendant) appeals from Judgments entered upon guilty verdicts rendered by a jury for Manufacturing Methamphetamine; Trafficking in Methamphetamine by Possession; Trafficking in Methamphetamine by

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Manufacture; three counts of Possession of an Immediate Precursor with Intent to Manufacture Methamphetamine; two counts of Possession of an Immediate Precursor Chemical with Intent to Manufacture Methamphetamine; Possession of a Controlled Substance; misdemeanor Maintaining a Dwelling for Keeping or Storing a Controlled Substance; and Possession of Drug Paraphernalia. Defendant was indicted on 19 August 2019. On 14 April 2022, the State filed a Motion to Amend Indictments to correct errors mislabeling five of the offense counts. At trial, the State's evidence tended to show the following:

On 15 May 2019, Defendant called 911 about a domestic dispute with his girlfriend. In following up on this call, Deputies from the Chatham County Sheriff's Office discovered Defendant had an outstanding warrant for his arrest. Approximately 30 minutes after the call, two Deputies arrived at Defendant's residence at 41 Merry Oaks Cemetery Road, New Hill, North Carolina. As they approached the house, the Deputies noticed an odor of marijuana coming from the house. A man later identified as Norman Ramsey II (Ramsey) answered the front door and told the Deputies that Defendant was not there. At this point, the Deputies believed that the marijuana odor was coming from inside the house. The Deputies asked Ramsey if they could come inside to look for Defendant and Ramsey agreed. Inside, they found Defendant sitting in the living room with another man, later identified as Ramsey Capps (Capps).

The Deputies asked all three men to step outside and they arrested Defendant.

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When the Deputies asked Defendant if they could search the house, he declined. They also asked Capps and Ramsey if there were any drugs in the house and Capps and Ramsey responded that there was a “roach.” All three men were kept outside until a narcotics investigator, Deputy Chris Tipton (Deputy Tipton), arrived. When he arrived, Deputy Tipton collected Ramsey’s and Capps’s driver’s licenses, neither of which listed the house as their address. Deputy Tipton asked Defendant if he could search the house and Defendant again declined. Defendant was taken into custody. Before being transported into custody, Defendant requested to turn off the radio in his room. Following Defendant’s arrest, Deputies had to arrange for either Defendant’s father or a neighbor to pick up Defendant’s dogs from the house.

On 15 May 2019, Deputy Tipton obtained a warrant to search the house for evidence related to Possession of Marijuana and Maintaining a Dwelling for Keeping or Storing a Controlled Substance. Upon executing the search warrant, Deputies discovered Defendant’s Social Security card in one of the bedrooms. They also found mail addressed to a “Jaconna Lawrence” at another address. This person was confirmed to be out of the country at the time of these events.

Deputies further discovered chemicals and instruments that led them to believe a “one pot” methamphetamine lab was being run at the house. Specifically, Deputies found a grocery bag with a box of pseudoephedrine in the living room; a pill grinder and Mucinex in a bedroom; a plastic bag with 0.95 grams of a combination of meth and pseudoephedrine, a can of camp fuel, a can of drano crystals, and a bottle

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cap with rubber tubing in Defendant's room; and bottles in the trash with a white sludge material and a glass jar with meth oil inside of it. The evidence reflected each of these items is consistent with cooking methamphetamine using the "one pot" method. After finding these items, the Deputies stopped searching, cleared the house, and applied for another warrant with a destruction order based on the discovery of "chemicals and substances which either have been used, or will be used in the manufacture of controlled substances."

The next day, the Deputies, now joined by an SBI Agent, executed the new warrant and destruction order at the house. Deputies found a grocery bag with lithium batteries in the living room, including one cut open with the lithium strip removed; a small black bag with a meth pipe in it; "numerous bottles" with "white haze and sludge," blister packs of pseudoephedrine, empty lithium battery boxes, camp fuel containers, salt containers, drano containers, hydrogen peroxide, cold packs, and stripped lithium batteries in trash piles outside of the fenced-in backyard. The evidence reflected these additional items were also consistent with a "one pot" meth operation. Based on the evidence gathered in these searches, Deputies obtained an arrest warrant for Defendant, which was executed on 21 May 2019. They also confirmed that the owners of the house lived in another city and sent a letter notifying them the house was a "clandestine laboratory" and that they were responsible for remediation of the property. When Deputies arrived to arrest Defendant, he was asleep alone in the house. When they yelled and woke Defendant, he attempted to

flee through the back of the house.

After the presentation of the State's evidence, Defendant moved to dismiss all charges based on insufficient evidence. The trial court denied Defendant's Motion. Defendant did not present any evidence at trial. The jury returned guilty verdicts on the charges of Manufacturing Methamphetamine, Trafficking Methamphetamine by Possession and by Manufacture, three counts of Possession of an Immediate Precursor with Intent to Manufacture Methamphetamine, two counts of Possession of an Immediate Precursor Chemical with Intent to Manufacture Methamphetamine, Possession of a Controlled Substance, misdemeanor Maintaining a Dwelling, and Possession of Drug Paraphernalia. The trial court consolidated the convictions of Possession of an Immediate Precursor, Possession of an Immediate Precursor Chemical, Possession of a Controlled Substance, Maintaining a Dwelling, Possession of Drug Paraphernalia, and Manufacturing Methamphetamine. The trial court also consolidated the Trafficking Methamphetamine by Possession and by Manufacture. Defendant was sentenced to concurrent sentences of 70 to 96 months of imprisonment and 70 to 93 months of imprisonment. Defendant gave oral Notice of Appeal after the verdict and sentence were rendered in Superior Court.<sup>1</sup>

### **Appellate Jurisdiction**

This Court has jurisdiction to hear appeals from final judgments of a Superior

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<sup>1</sup> A corrected Judgment was entered on 27 April 2022 to reflect that a \$50,000 fine should be entered as a civil judgment against Defendant as part of his sentence for the Trafficking convictions.

Court pursuant to N.C. Gen. Stat. §§ 7A-27 and 15A-1444(a).

**Issues**

The issues on appeal are whether: (I) the Record is sufficient to review Defendant's ineffective assistance of counsel (IAC) claims on direct review; and (II) the trial court erred in denying Defendant's Motion to Dismiss.

**Analysis**

I. **Ineffective Assistance of Counsel**

Defendant argues that his trial counsel was ineffective because he failed to argue that the search warrant in this case was not supported by probable cause. In general, claims of ineffective assistance of counsel should be considered through motions for appropriate relief rather than direct appeal. *See State v. Dockery*, 78 N.C. App. 190, 192, 336 S.E.2d 719, 721 (1985) ("The accepted practice is to raise claims of ineffective assistance of counsel in post-conviction proceedings, rather than direct appeal."). A motion for appropriate relief is preferable to direct appeal because in order to

defend against ineffective assistance of counsel allegations, the State must rely on information provided by defendant to trial counsel, as well as defendant's thoughts, concerns, and demeanor. [O]nly when all aspects of the relationship are explored can it be determined whether counsel was reasonably likely to render effective assistance. Thus, superior courts should assess the allegations in light of all the circumstances known to counsel at the time of the representation.

*State v. Buckner*, 351 N.C. 401, 412, 527 S.E.2d 307, 314 (2000) (citations and

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quotation marks omitted). “IAC claims brought on direct review will be decided on the merits when the cold record reveals that no further investigation is required, i.e., claims that may be developed and argued without such ancillary procedures as the appointment of investigators or an evidentiary hearing.” *State v. Fair*, 354 N.C. 131, 166, 557 S.E.2d 500, 524 (2001) (citations omitted). However, “should the reviewing court determine that IAC claims have been prematurely asserted on direct appeal, it shall dismiss those claims without prejudice to the defendant’s right to reassert them during a subsequent MAR proceeding.” *Id.* at 167, 557 S.E.2d at 525.

To succeed on an IAC claim, a defendant “must show that counsel’s representation fell below an objective standard of reasonableness” and “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland v. Washington*, 466 U.S. 668, 688-94, 104 S. Ct. 2052, 2064-68 (1984); *see also State v. Braswell*, 312 N.C. 553, 562-63, 324 S.E.2d 241, 248 (1985) (adopting the *Strickland* test for IAC claims under N.C. Const. art. I §§ 19, 23).

Here, in the absence of a developed record on a motion to suppress, we are unable to decide Defendant’s IAC based on the cold record on appeal. *Fair*, 354 N.C. at 166, 557 S.E.2d at 524 (citation omitted); *see State v. Rivera*, 264 N.C. App. 525, 540, 826 S.E.2d 511, 521 (2019) (in the absence of a suppression hearing, an IAC claim is premature on direct appeal).

We thus conclude, “further development of the facts would be required before

application of the *Strickland* test[.]” *State v. Allen*, 360 N.C. 297, 316, 626 S.E.2d 271, 286 (2006) (citation omitted). Therefore, we dismiss Defendant’s IAC claim without prejudice to allow Defendant to pursue a motion for appropriate relief in the trial court.

II. Defendant’s Motion to Dismiss

Defendant argues that the trial court erred in denying his Motion to Dismiss all of the charges against him. Defendant specifically contends that the State failed to present sufficient evidence that Defendant manufactured methamphetamine and that he constructively possessed the methamphetamine found in the kitchen, the pseudoephedrine and lithium batteries found in the living room, and the sulfuric acid found on the front porch. Defendant’s arguments with respect to both the manufacturing-related charges and the possession-related charges turn on the issue of constructive possession. While the analysis differs to a certain degree, much of the evidence supporting the manufacturing-related convictions also supports the possession-related convictions.

“Constructive possession [of a controlled substance] occurs when a person lacks actual physical possession, but nonetheless has the intent and power to maintain control over the disposition and use of the [controlled] substance.” *State v. Alston*, 193 N.C. App. 712, 715, 668 S.E.2d 383, 386 (2008) (citation and quotation marks omitted) (alterations in original). “The defendant may have the power to control either alone or jointly with others.” *State v. Miller*, 363 N.C. 96, 99, 678 S.E.2d 592,

594 (2009). Constructive possession is a fact-specific inquiry based on the totality of the circumstances. *See id.* “Unless a defendant has exclusive possession of the place where the contraband is found, the State must show other incriminating circumstances sufficient for the jury to find a defendant had constructive possession.” *Id.* “Constructive possession depends on the totality of the circumstances in each case. No single factor controls, but ordinarily the question will be for the jury.” *State v. Sinclair*, 191 N.C. App. 485, 492, 663 S.E.2d 866, 872 (2008) (citation and quotation marks omitted).

*A. Standard of Review*

We review the trial court’s denial of a motion to dismiss de novo. *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E.2d 29, 33 (2007). However, “[u]pon defendant’s motion for dismissal, the question for the Court is whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant’s being the perpetrator of such offense. If so, the motion is properly denied.” *State v. Fritsch*, 351 N.C. 373, 378, 526 S.E.2d 451, 455 (2000) (citation omitted). “Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *State v. Blake*, 319 N.C. 599, 604, 356 S.E.2d 352, 355 (1987) (citation omitted). “Evidence is not substantial if it arouses only a suspicion about the facts to be proved, even if the suspicion is strong.” *State v. Sumpter*, 318 N.C. 102, 108, 347 S.E.2d 396, 399 (1986) (citing *State v. Malloy*, 309 N.C. 176, 305 S.E.2d 718 (1983)).

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“In making its determination, the trial court must consider all evidence admitted, whether competent or incompetent, in the light most favorable to the State, giving the State the benefit of every reasonable inference and resolving any contradictions in its favor.” *State v. Rose*, 339 N.C. 172, 192, 451 S.E.2d 211, 223 (1994) (citation omitted). “Only defendant’s evidence which does not contradict and is not inconsistent with the [S]tate’s evidence may be considered favorably to defendant if it explains or clarifies the [S]tate’s evidence or rebuts inferences favorable to the [S]tate.” *Sumpter*, 318 N.C. at 107-08, 347 S.E.2d at 399 (citations omitted).

For the charge of Manufacturing Methamphetamine, N.C. Gen. Stat. § 90-95(a)(1) provides: “it is unlawful for any person . . . [t]o manufacture . . . a controlled substance[.]” N.C. Gen. Stat. § 90-95(a)(1) (2021). Under the North Carolina Controlled Substances Act, “ ‘Manufacture’ means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance by any means[.]” N.C. Gen. Stat. § 90-87(15) (2021). In order to survive Defendant’s Motion to Dismiss the Manufacturing charge, the State must offer substantial evidence that Defendant was engaged in one or more of the above-named manufacturing activities. *See State v. Smith*, 300 N.C. 71, 78, 265 S.E.2d 164, 169 (1980).

For the charge of Trafficking in Methamphetamine by Manufacture, N.C. Gen. Stat. § 90-95(h)(3b) provides: “Any person who . . . manufactures . . . 28 grams or more of methamphetamine or any mixture containing such substance shall be guilty of . . .

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‘trafficking in methamphetamine[.]’ ” N.C. Gen. Stat. § 90-95(h)(3b) (2021). The definition of “manufacturing” is the same as in Manufacturing, supra. The State must provide substantial evidence that Defendant committed one or more of the above manufacturing activities and manufactured at least 28 grams of methamphetamine, or a mixture containing methamphetamine.

As to the charge of Trafficking in Methamphetamine by Possession, N.C. Gen. Stat. § 90-95(h)(3b) provides: “Any person who . . . possesses 28 grams or more of methamphetamine or any mixture containing such a substance shall be guilty of . . . ‘trafficking in methamphetamine[.]’ ” N.C. Gen. Stat. § 90-95(h)(3b) (2021). To establish trafficking by possession, the State must present substantial evidence that Defendant “(1) knowingly possessed . . . methamphetamine, and (2) that the amount possessed was greater than 28 grams.” *State v. Shelman*, 159 N.C. App. 300, 305, 584 S.E.2d 88, 93 (2003). “The ‘knowing possession’ element of the offense of trafficking by possession may be established by a showing that . . . the defendant had constructive possession[.]” *State v. Reid*, 151 N.C. App. 420, 428, 566 S.E.2d 186, 192 (2002).

Finally, as to the charge of “Possession of an Immediate Precursor with Intent to Manufacture Methamphetamine, N.C. Gen. Stat. § 90-95(d1)(2) provides: “it is unlawful for any person to possess an immediate precursor chemical with intent to manufacture methamphetamine[.]” N.C. Gen. Stat. § 90-95(d1)(2)(a) (2021). “To prove that a defendant possessed contraband materials, the State must prove beyond

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a reasonable doubt that the defendant had either actual or constructive possession of the materials.” *State v. Loftis*, 185 N.C. App. 190, 197, 649 S.E.2d 1, 6 (2007) (citation omitted).

Defendant argues that the trial court should have dismissed the Manufacturing and Trafficking by Manufacturing charges against him because Defendant was not observed actively engaged in cooking methamphetamine or found near the methamphetamine. Defendant further contends that the State failed to present sufficient evidence that Defendant constructively possessed: (1) the 108 grams of methamphetamine found in the kitchen; (2) the pseudoephedrine and lithium batteries found in the living room; and (3) the sulfuric acid found on the front porch.

*B. Manufacturing Charges*

This Court has held that where illegal narcotics “are found on the premises under the control of an accused, this fact, in and of itself, gives rise to an inference of knowledge and possession which may be sufficient to carry the case to the jury” for narcotics charges. *State v. Harvey*, 281 N.C. 1, 12, 187 S.E.2d 706, 714 (1972). This Court has made two additional relevant holdings with respect to constructive possession specifically in drug manufacturing cases.

First, this Court has held that a reasonable inference of exclusive control of a premises can be drawn from circumstantial evidence. *State v. Perry*, 316 N.C. 87, 96, 340 S.E.2d 450, 456 (1986). Second, we have held that where illegal drug and related

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manufacturing implements are found on a premises over which a defendant has control, a jury may reasonably draw an inference of guilt for manufacturing narcotics even if the defendant was not caught actively manufacturing or within arm's reach of the contraband. *Id.*; see also *State v. Tate*, 105 N.C. App. 175, 179-80, 412 S.E.2d 368, 370-71 (1992) (applying constructive possession to evaluate the sufficiency of the evidence of a narcotics manufacturing conviction). “Furthermore, where there is no evidence of ownership or of exclusive possession of the premises on which controlled substances are found, constructive possession may be inferred if the defendant has nonexclusive possession of the premises and there are accompanying incriminating circumstances.” *Id.* at 180, 412 S.E.2d at 371 (citation omitted).

Here, the State presented evidence at trial that Defendant had control, though not necessarily exclusive control, over the house and, consequently, the contraband within it. Defendant denied the Deputies permission to search the house, suggesting he had control over it. See *Tate*, 105 N.C. App. at 180, 412 S.E.2d at 371; *State v. Leonard*, 87 N.C. App. 448, 456, 361 S.E.2d 397, 402 (1987). However, Defendant was not initially at the house alone; when law enforcement first arrived, two other men were also present. Further, one of these men gave Deputies permission to enter the home to look for Defendant. Additionally, one deputy testified that when he called the phone number given to him by 911 Dispatch to follow up on the alleged domestic dispute, the person he spoke to identified herself as Defendant's “roommate.” Accordingly, because Defendant did not have exclusive control of the house, the State

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was required to also present evidence of other incriminating circumstances. *Miller*, 363 N.C. at 99, 678 S.E.2d at 594.

Viewed in the light most favorable to the State, there is sufficient evidence of other incriminating circumstances. This Court has articulated several incriminating circumstances which may give rise to constructive possession, including evidence that a defendant:

- (1) owned other items found in proximity to the contraband;
- (2) was the only person who could have placed the contraband in the position where it was found;
- (3) acted nervously in the presence of law enforcement;
- (4) resided in, had some control of, or regularly visited the premises where the contraband was found;
- (5) was near contraband in plain view; or
- (6) possessed a large amount of cash.

*Alston*, 193 N.C. App. at 716, 668 S.E.2d at 386 (citation omitted). No single factor is controlling. *Id.* at 716, 668 S.E.2d at 387 (citation omitted). As to the first factor, the State presented evidence Defendant's Social Security card was found during the first search of the house in one of the bedrooms and in proximity to contraband. *See State v. Bradshaw*, 366 N.C. 90, 96-97, 728 S.E.2d 345, 349-50 (2012) (finding sufficient "other incriminating circumstances" to show a defendant's nonexclusive control over bedroom containing contraband where bedroom contained documents bearing defendant's name). With respect to the third factor, although Defendant did not appear nervous when speaking with Deputies when he was first arrested on 15 May 2019, he attempted to flee the scene when officers went to arrest him on the charges in this case on 21 May 2019. *See State v. Mewborn*, 200 N.C. App. 731, 737, 684

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S.E.2d 535, 539 (2009) (noting a defendant fleeing after being stopped by police as an incriminating circumstance supporting finding defendant's constructive possession of a firearm).

As to the fourth factor, the State presented significant evidence Defendant resided in the house where the contraband was found. First, when serving the second arrest warrant, Deputies discovered Defendant asleep in a bedroom and alone in the house. Second, Defendant referred to a bedroom in the house as "his room" when, after his initial arrest, Defendant asked to turn off a radio in "his room" before being taken into custody. Lastly, Deputies had to arrange for either Defendant's father or a neighbor to pick up his dogs from the house when Defendant was arrested. With regard to the fifth factor, Defendant was initially discovered in the living room, near contraband including a box of pseudoephedrine and lithium batteries.

Additionally, much of the investigatory process involved ruling out other suspects from involvement in the meth lab at the house. Neither of the two men initially discovered at the house with Defendant had the house listed as their address on their driver's license. Although a piece of mail belonging to a woman was found in the house, the woman was out of the country at the time of the incidents here and the address on the mail was a different residence. Lastly, the owners of the house lived in another city.

Based on this evidence, and viewing it in the light most favorable to the State, there were sufficient incriminating circumstances from which the jury could find

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constructive possession of the house. Additional evidence supports the conclusion that a meth lab was being run at the house. Numerous bottles with a “white sludge” material were found in both the kitchen trash and in trash piles outside of the fenced-in backyard. This “white sludge” is produced by cooking meth using the “one pot” method. Lithium batteries, including ones that had been stripped, as well as empty boxes of lithium batteries were also found throughout the house and in the trash piles outside. Lithium strips are also an essential part of the process to cook meth in the “one pot” method. Further, numerous chemical substances were found throughout the house, all of which are consistent with cooking methamphetamine. Lastly, Deputies found a bottle cap with rubber tubing in Defendant’s room, which is a tool used to make methamphetamine. Together, this evidence amounts to substantial circumstantial evidence that methamphetamine was being manufactured at the house.

Our precedents establish that a jury may find a defendant guilty of narcotics manufacturing, even when the defendant was not observed in the act of manufacturing, if the defendant controlled or constructively possessed the place where manufacturing implements are found. *See Perry*, 316 N.C. at 98-99, 340 S.E.2d at 458; *Tate*, 105 N.C. App. at 179-80, 412 S.E.2d at 370-71. The circumstantial evidence is sufficient to support a finding that Defendant constructively controlled the house, that a meth lab was being run in the house, and, consequently, that Defendant manufactured methamphetamine. Thus, the State presented sufficient

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evidence to establish Defendant's constructive possession of the house and manufacturing implements within it. Therefore, the trial court did not err in denying Defendant's Motion to Dismiss for insufficient evidence. Consequently, we find no error in the trial court's Judgments for the convictions of Manufacturing Methamphetamine and Trafficking in Methamphetamine by Manufacture.

*C. Possession Charges*

As with control of the house, the State argues that Defendant constructively possessed contraband chemicals and items. Here, Defendant challenged the sufficiency of the evidence that he constructively possessed the 108 grams of methamphetamine found in the kitchen, the pseudoephedrine and lithium batteries found in the living room, and the sulfuric acid found on the front porch. As with the manufacturing-related charges, where illegal narcotics "are found on the premises under the control of an accused, this fact, in and of itself, gives rise to an inference of knowledge and possession which may be sufficient to carry the case to the jury" for narcotics charges. *Harvey*, 281 N.C. at 12, 187 S.E.2d at 714. For the same reasons that the evidence is sufficient to support Defendant's conviction for the manufacturing-related offenses, there is likewise sufficient evidence to support Defendant's constructive possession of the items and chemicals in question.

Returning to the factors this Court articulated in *Alston* and viewing the evidence in the light most favorable to the State, there was sufficient evidence that Defendant constructively possessed the methamphetamine and precursor chemicals

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at issue because he had at least some level of control of the house and there were other incriminating circumstances. First, the State presented evidence that Defendant's Social Security card was discovered in the home, near other contraband. *See Bradshaw*, 366 N.C. at 96-97, 728 S.E.2d at 349-50. The State also presented significant evidence that Defendant resided in the house. Defendant referred to a bedroom in the house as "his room" to Deputies. Deputies had to arrange for someone else to pick up Defendant's dogs from the house when Defendant was first arrested. Additionally, when officers went to arrest Defendant the second time, they discovered him sleeping in one of the bedrooms and alone in the house. The State also presented evidence that the owners of the house did not live at the house. The two men initially at the house with Defendant had other addresses listed as their residences on their driver's licenses, and the woman whose name was on the piece of mail found in the house was not in the country at the time of this incident.

Further, Defendant attempted to flee when Deputies came to arrest him the second time when he was alone in the house, tending to establish Defendant exhibited nervous behavior around law enforcement. *See Mewborn*, 200 N.C. App. at 737, 684 S.E.2d at 539. Thus, the State presented sufficient evidence to establish Defendant's constructive possession of the chemicals and implements. Therefore, the trial court did not err in denying Defendant's Motion to Dismiss for insufficient evidence. Consequently, there was no error in the trial court's Judgments for convictions of Possession of an Immediate Precursor with Intent to Manufacture

Methamphetamine and Trafficking in Methamphetamine by Possession.

**Conclusion**

Accordingly, for the foregoing reasons, we dismiss Defendant's ineffective assistance of counsel claim without prejudice, and we conclude there was no error at trial and affirm the trial court's Judgments entered on the convictions of Manufacturing Methamphetamine, Trafficking in Methamphetamine by Manufacture, Trafficking in Methamphetamine by Possession, and Possession of an Immediate Precursor with Intent to Manufacture Methamphetamine.

DISMISSED IN PART; NO ERROR IN PART.

Judges STADING and THOMPSON concur.

Report per Rule 30(e).