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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-432

Filed 4 November 2026

Columbus County, No. 24CR000260-230

STATE OF NORTH CAROLINA

v.

BOBBY RAY BLACKWELL

Appeal by defendant from judgment entered 15 May 2025 by Judge C. Ashley Gore in Columbus County Superior Court. Heard in the Court of Appeals 15 October 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Michelle B. Harris, for the State.

Joseph Gerber for defendant-appellant.

ARROWOOD, Judge.

Bobby Ray Blackwell ("defendant") appeals from judgment entered 15 May 2025 upon his conviction of possession of a firearm by a felon. For the following reasons, we discern no error in his conviction.

I. Background

Defendant was charged with possession of a firearm by a felon following a

search of a house in Columbus County pursuant to a warrant on 12 June 2024. Evidence presented at trial showed the house belonged to defendant's mother, Ms. Blackwell. Inside, officers observed Ms. Blackwell and defendant's girlfriend in the living room and kitchen. Defendant was in a bedroom, sitting on the bed and playing a video game. Defendant was detained and moved into the living room while the house was searched.

In the bedroom where defendant had been sitting, officers found a small .22-caliber rifle hanging behind the bedroom door, a few feet away from the bed and in the direction of the TV. A floor mat and some garments were hanging in front of the gun. When asked whether the floor mat obstructed the view of the gun, a detective testified that he could not recall and "[didn't] know if it obstructed the whole view or some of the view." The officers removed the firearm and showed it to defendant who responded that it was a "child's rifle." Also found in the bedroom were pill bottles in defendant's name, Old Spice "Swagger" deodorant, a few items of defendant's clothing, a digital scale, and little baggies containing a green, leafy substance which defendant's girlfriend said was her hemp.[1]

Defendant and his girlfriend had been living in the house to care for Ms.

[1] Some testimony indicated that the deodorant and baggies of hemp were found in an adjacent or adjoining bathroom. At trial, defendant testified that he was in the vicinity of each of these items immediately prior to the search. On appeal, defendant makes no distinction between items found in the bedroom versus a bathroom. As we view the evidence in the light most favorable to the State, we proceed under the assumption that the hemp and deodorant were in the same room as the other items.

Blackwell but denied that the room where the rifle was found was defendant's bedroom. They both testified that Ms. Blackwell slept in the bedroom and that she had done so the night before. Defendant and his girlfriend stated that they had been staying in the living room but were working on switching rooms with Ms. Blackwell so she could use a hospice hospital bed. They alleged that in the course of the switch, some of their belongings had gotten mixed up. Additionally, defendant's girlfriend testified that she put her gaming system in the bedroom because it had the largest TV, so they used the room for that purpose. Both defendant and his girlfriend denied any knowledge of the gun.

At trial, defendant moved to dismiss the charge of possession of a firearm by a felon at the close of the State's evidence and again at the close of all evidence. The trial court denied both motions. The jury returned a guilty verdict on 15 May 2025. Defendant orally noticed appeal to this Court.

II. Discussion

Defendant raises a single issue on appeal: whether the trial court erred in denying his motion to dismiss the charge of possession of a firearm by a felon for insufficient evidence. For the following reasons, we hold that the trial court did not err.

A. Standard of Review

This Court reviews a trial court's denial of a motion to dismiss de novo. *State v. Tucker*, 380 N.C. 234, 236 (2022) (citation omitted). "The question for a court on a

motion to dismiss for insufficient evidence '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 the defendant's being the perpetrator of such offense.' " *Id.* (quoting *State v. Powell*, 299 N.C. 95, 98 (1980)). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *State v. Smith*, 300 N.C. 71, 78 (1980) (citations omitted).

"In reviewing challenges to the sufficiency of evidence, we must view the evidence in the light most favorable to the State, giving the State the benefit of all reasonable inferences." *State v. Barnes*, 334 N.C. 67, 75 (1993) (citation omitted). " 'When the evidence raises no more than a suspicion of guilt, a motion to dismiss should be granted.' " *State v. Bradshaw*, 366 N.C. 90, 93 (2012) (quoting *State v. Miller*, 363 N.C. 96, 99 (2009)). "However, so long as the evidence supports a reasonable inference of the defendant's guilt, a motion to dismiss is properly denied even though the evidence also permits a reasonable inference of the defendant's innocence." *Id.* (quoting *Miller*, 363 N.C. at 99).

B. Constructive Possession

"To convict a defendant of possession of a firearm by a felon the State must prove that the defendant (1) was previously convicted of a felony and (2) subsequently possessed a firearm." *State v. Norris*, 933 S.E.2d 786, 792 (N.C. 2026) (cleaned up); *see also* N.C.G.S. § 14-415.1 (2025). "Possession may be either actual or constructive." *State v. Bowens*, 140 N.C. App. 217, 222 (2000) (citation omitted). "A defendant

constructively possesses contraband when he or she has 'the intent and capability to maintain control and dominion over' it." *Miller*, 363 N.C. at 99 (quoting *State v. Beaver*, 317 N.C. 643, 648 (1986)). "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.* (citation omitted).

"Whether incriminating circumstances exist to support a finding of constructive possession is a fact-specific inquiry." *State v. Chekanow*, 370 N.C. 488, 496 (2018) (citation omitted). In determining whether sufficient incriminating circumstances exist, our Courts consider:

> (1) the defendant's ownership and occupation of the property . . . ; (2) the defendant's proximity to the contraband; (3) indicia of the defendant's control over the place where the contraband is found; (4) the defendant's suspicious behavior at or near the time of the contraband's discovery; and (5) other evidence found in the defendant's possession that links the defendant to the contraband.

Id. "Because no one factor controls, courts must consider the totality of the circumstances." *Norris*, 933 S.E.2d at 792 (cleaned up).

For example, in *State v. Rich*, 87 N.C. App. 380, 381 (1987), the defendant had been convicted of possession of cocaine. On the night of her arrest, she was cooking dinner at a house when agents arrived with a search warrant. *Id.* The search uncovered approximately 20 grams of cocaine from one of the house's bedrooms; some in a tin can atop a dresser, and the rest in a plastic bag inside the dresser's top drawer.

Id. The agents also found women's clothes in the dresser and letters with the defendant's name on them elsewhere in the bedroom. *Id.* On the dining room table, the agents found an insurance policy listing the defendant as the insured and the house as her residence. *Id.* This Court considered the items found in the search, along with the fact that the defendant was present in the house when the cocaine was discovered, to be sufficient evidence of other incriminating circumstances to allow the jury to infer that the defendant was in constructive possession of the cocaine. *Id.* at 382–83.

Here, it is uncontested that defendant had previously been convicted of a felony, and defendant had nonexclusive control over the place where the firearm was found. Thus, the question for this Court is simply whether there was sufficient evidence of other incriminating circumstances to support a reasonable inference that defendant was in constructive possession of the firearm. We conclude there was.

Defendant admitted to residing in the house and having a habit of occupying the bedroom where the firearm was found to play video games. The State presented several items found in the bedroom from which the jury could infer defendant had even greater control over the room, including pill bottles with defendant's name, his hoodies, and men's deodorant. Moreover, when the officers arrived at the house, defendant was present and in the vicinity of the firearm. Lastly, defendant's statement to the officers describing the firearm as "a child's rifle" could be interpreted as indicating his knowledge and awareness of the firearm.

In arguing that this evidence is insufficient, defendant emphasizes that the rifle was partially obscured from view and the evidence does not show a unique connection to the firearm itself. However, the jury could have reasonably inferred from photos presented at trial and the detective's testimony that the rifle was visible from where defendant was sitting. Additionally, in *Rich*, where much of the contraband was also obscured from view, the other incriminating evidence similarly consisted of personal items found in the vicinity and the defendant's presence in the residence. *Rich*, 87 N.C. App. at 381.

Under the totality of the circumstances, and viewing the evidence in the light most favorable to the State, there was sufficient evidence for the jury to find that defendant constructively possessed the firearm. Accordingly, the trial court did not err by denying defendant's motion to dismiss.

III. Conclusion

For the foregoing reasons, we hold that the trial court did not err by denying defendant's motion to dismiss the charge of possession of a firearm by a felon for insufficient evidence.

NO ERROR.

Judges ZACHARY and STADING concur.

Report per Rule 30(e).