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Recent Developments: Taylor v. State: A Conviction for Possession of Marijuana Based on Circumstantial Evidence Must Establish a Reasonable Inference That the Defendant Exercised Dominion or Control over the Possessed Substance

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Taylor v. State:

In *Taylor v. State*, 346 Md. 452, 697 A.2d 462 (1997), the Court of Appeals of Maryland held that evidence of a defendant's presence in a room where marijuana had been smoked, his knowledge of the drug use, and his close proximity to the discovered substance was insufficient to support a conviction for possession of marijuana. The court acknowledged that there was a strong probability of guilt, but refused to affirm a conviction based on circumstantial evidence where the trier of fact had to resort to speculation or conjecture. In so holding, the court reaffirmed the sufficiency of evidence doctrine and resisted taking the distorted view of "beyond a reasonable doubt" that the lower courts followed.

On the morning of June 10, 1995, Ocean City Police Officer Bernal responded to a complaint at the Days Inn in Ocean City, Maryland. He was directed to a room registered to the Petitioner, Richard Taylor ("Taylor"), and four friends. Officer Bernal and the hotel manager noticed the smell of marijuana coming from the room. The officer enlisted a returning member of the room to knock on the door, and was admitted. There were five occupants in the room, including Taylor. Taylor was observed laying on the floor with his head turned toward the wall. Officer Bernal testified that he could not determine if Taylor was asleep. He also testified that he observed clouds of marijuana smoke in the air. The officer was granted permission to search the room for drugs.

**A CONVICTION FOR
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SUBSTANCE**

By Sean Patrick Casey

After Officer Bernal threatened to conduct an extensive search of the entire premises, Chris Myers, an occupant of the room, handed a bag of marijuana to the officer and told him where another was hidden. Myers claimed ownership of the marijuana and was arrested. Officer Bernal then asked everyone in the room if they were smoking marijuana. Taylor and the other occupants denied any drug use and stated friends that had stopped by earlier were smoking marijuana. Although Officer Bernal noticed the smell of marijuana in the air, he did not see anyone smoking marijuana, nor was any visible. Taylor was subsequently arrested.

At a bench trial, Taylor was convicted in the Circuit Court of Maryland for Worcester County of possession of marijuana in violation of Article 27, section 287 of the Maryland Annotated Code.

Based on the testimony of Officer Bernal, the trial court drew the inference that Taylor had been in possession of marijuana while in the hotel room. The trial court based the inference on Taylor's presence in the room while marijuana was being smoked, his knowledge that marijuana was in the room, and his possessory right in the premises.

Taylor appealed to the Court of Special Appeals of Maryland contending that the evidence was insufficient to sustain a conviction. The court affirmed the conviction, holding the trial court's findings reasonable. The court added that Taylor's presence in a room where marijuana had recently been smoked led to the inference that he had recently smoked marijuana. The Court of Appeals of Maryland granted certiorari on Taylor's petition challenging the sufficiency of the evidence for his conviction.

The court of appeals began its analysis by offering the standard of review for evidence sufficient to sustain a conviction. *Taylor v. State*, 346 Md. at 457, 697 A.2d at 465. The court explained that it would not measure the weight of the evidence, but only whether the verdict was supported by sufficient evidence to convince a trier of fact of the defendant's guilt beyond a reasonable doubt. *Id.* (citing *State v. Albrecht*, 336 Md. 475, 478-79, 649 A.2d 336, 337 (1994)).

The court then presented the statutory definition of possession as "the exercise of actual or constructive control over a thing by one or more persons." *Id.* at 457, 697 A.2d at 465 (quoting Md.

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Ann. Code art. 27, § 277 (1992)). The court added, "possession may be constructive or actual, exclusive or joint." *Id.* at 458, 697 A.2d at 465. Under the proscribed definition, the court reviewed the State's case against Taylor.

The court observed that the State relied on circumstantial evidence of joint and constructive possession. *Id.* at 458, 697 A.2d at 465. Acknowledging that a conviction may rest exclusively on circumstantial evidence, the court cautioned that the circumstances taken together cannot leave room for any conjecture or speculation by the trier of fact. *Id.* at 458, 697 A.2d at 465. The court articulated that when the evidence at trial equally supports two versions of the events, and a finding of guilt requires speculation as to which version is true, a conviction cannot be sustained. *Id.* (citing *Hebron v. State*, 331 Md. 219, 627 A.2d 1029 (1993)).

Applying these guidelines, the court stated Officer Bernal's testimony only established that Taylor was present in the room while marijuana was being smoked, that he was aware of the drug use, and that he was near a concealed container of marijuana. *Id.* at 459, 697 A.2d at 465. The court noted that Taylor was not in exclusive possession of the room and the discovered marijuana was never shown to be in Taylor's control. *Id.* The court concluded

by stating, without direct evidence, a rational inference that Taylor possessed marijuana could not be supported by his presence in the room. *Id.* at 459, 697 A.2d at 466.

Furthermore, the court determined the State failed to prove Taylor had knowledge of the existence of marijuana, an essential element of the charged offense. *Id.* at 460, 697 A.2d at 466. The court reasoned that it would be impossible to exercise "dominion and control" over an object without first being aware of the presence of that object. *Id.* Although the circumstances led to a strong suspicion of Taylor's knowledge of the presence of marijuana, the court held that strong suspicion was not enough to sustain a conviction. *Id.*

The court next turned to a review of Maryland appellate decisions where convictions for possession of controlled substances were reversed. *Id.* at 461, 697 A.2d at 467. Summarizing the cases, the court noted a trend where convictions for possession were overturned because the evidence did not establish nor provide a reasonable inference to establish, that the accused exercised dominion or control over the contraband. *Id.*

The court closed its analysis by highlighting a court of appeals decision with similar facts. *Id.* In *Livingston v. State*, 317 Md. 408,

564 A.2d 414 (1989), the petitioner was charged with possession when police discovered two marijuana seeds in the front seat of a car. The court reversed the conviction, holding that the petitioner did not possess the requisite knowledge of the presence of marijuana seeds in the car, therefore he could not direct restraint or direction over the drugs. *Id.* at 463, 697 A.2d at 467 (citing *Livingston v. State*, 317 Md. 408, 564 A.2d 414 (1989)).

In *Taylor v. State*, the court held that a conviction for possession of marijuana must be based on evidence providing a reasonable inference that the defendant exercised dominion or control over the marijuana. This has long been the standard in Maryland. The significance of this decision is twofold. First, the facts in *Taylor* came closer to fulfilling the elements for possession of marijuana than any case cited in the opinion. This affords future defendants an extended precedent with which they can dispute the sufficiency of evidence in their cases. Second, and more importantly, in a time when the war on drugs has created laws of suspect constitutionality, the Court of Appeals of Maryland resisted an opportunity to sustain a drug conviction on grounds less than the requisite standard of beyond a reasonable doubt.