

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
April 7, 2026 Session

FILED

05/06/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. RONALD DAVID BALLARD

Appeal from the Circuit Court for Henderson County
No. 23-177-1 Joseph T. Howell, Judge

No. W2025-01056-CCA-R3-CD

The Defendant, Ronald David Ballard, was convicted in the Henderson County Circuit Court of fifteen counts of possession of a firearm by a convicted felon. After a sentencing hearing, the trial court merged all counts and sentenced him as a Range III, persistent offender to twenty-eight years in confinement for count one. On appeal, the Defendant contends that the evidence is insufficient to support the convictions because the State failed to show he constructively possessed the firearm. Based upon the oral arguments, the record, and the parties' briefs, we affirm the Defendant's convictions but remand the case to the trial court for sentencing on counts two through fifteen and for correction of the judgments pursuant to *State v. Berry*, 503 S.W.3d 360, 364 (Tenn. 2015).¹

**Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed,
Case Remanded**

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER, P.J., and CAMILLE R. MCMULLEN, J., joined.

M. Todd Ridley (on appeal), Assistant Public Defender - Appellate Division, Franklin, Tennessee, and Matthew Moore (at trial), Jackson, Tennessee, for the appellant, Ronald David Ballard.

Jonathan Skrmetti, Attorney General and Reporter; G. Kirby May, Assistant Attorney General; Jody S. Pickens, District Attorney General; and Eric V. Wood, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

¹ This case was argued in the historic courtroom at the Cecil C. Humphries School of Law at the University of Memphis.

FACTS

In August 2023, the Henderson County Grand Jury returned a fifteen-count indictment, charging the Defendant in counts one through four with possession of a firearm after having been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, or a felony involving use of a deadly weapon, a Class B felony, and in counts five through fifteen with possession of a handgun after having been convicted of a felony offense, a Class E felony. The Defendant went to trial in November 2024.

At trial, Investigator Jeremiah Davis of the Henderson County Sheriff's Office testified that on February 2, 2022, he was part of "a team" of officers that went to a property on Highway 104 North to serve warrants on the Defendant and the Defendant's brother, Donald Ballard.² The property consisted of a house that was flanked on either side by a camper. Investigator Davis said the officers knew that the Defendant and Donald could be in the house or in either of the campers; therefore, they had to act quickly upon arrival to locate the two men.

Investigator Davis testified that he ran to look inside the camper that was to the left of the house while other officers ran to look inside the house and the second camper. Investigator Davis said the left-side camper did not have a door; instead, an "egg mattress [was] kind of laying up there as a door." He could see inside the camper and saw the Defendant sitting in a chair. The Defendant saw Investigator Davis and stood up "real fast." Investigator Davis immediately told the Defendant to show his hands. Donald and another man, Curtis Renfro, were sitting on a couch near the Defendant. All three of them had outstanding warrants, so officers took them into custody.

Investigator Davis testified that after officers secured the scene, he saw "the butt or the end of [a] handgun sticking out of the cushion" of the chair in which the Defendant had been sitting. He photographed the gun, and the State introduced the photographs into evidence. The photographs showed the grip of the gun protruding from between the seat cushion and the right armrest of the recliner-type chair.

Investigator Davis testified that he did not test the gun for fingerprints, explaining, "I had no real reason. The crime that's being charged here today is possession of a firearm. That means being in proximity of that firearm, being able to get it, and he clearly could grab that gun at any time." He said Donald and Mr. Renfro were sitting on a couch in the same room but "away from" the gun. Skyler Ballard was not on the property that day.

² Because Donald Ballard and another witness, Skyler Ballard, share the same last name, we will refer to them by their first names for clarity. We mean no disrespect to the witnesses.

Investigator Davis acknowledged that he prepared a diagram of the camper to show its layout and where all three men were sitting, and the State introduced the diagram into evidence. The diagram showed that the camper had two rooms: a larger room with a couch and a smaller room with a couch and a chair. The chair in the smaller room was facing the front door, and the couch was to the left of someone sitting in the chair. All three men were in the smaller room, with the Defendant sitting in the chair and Donald and Mr. Renfro sitting on the couch.

On cross-examination, Investigator Davis acknowledged that he was wearing a body camera on February 2. However, he said he was in “such a rush” to get to the camper that he did not turn on his camera in time to record himself approaching the camper and confronting the Defendant. He acknowledged that it was dark inside the camper and that he initially did not see the gun. When he finally saw the gun, he had to shine a flashlight on it in order to photograph it. The gun’s serial number was visible, and a computer check of the serial number showed that the gun was not stolen.

Investigator Davis acknowledged that the officers “popped up on” the three men. He described the room in which they were sitting as “really small” and estimated the size to be “[s]even-by-seven maybe.” He acknowledged that he did not know the amount of time each man had been in the camper and that Donald and Mr. Renfro “could have had access to that gun in that room.” Donald claimed ownership of the gun. However, Investigator Davis did not charge him with a crime related to the firearm because he did not have a prior felony conviction, so it was not a crime for him to possess the firearm. Investigator Davis said he charged the Defendant with possessing the firearm because the gun was “next to” the Defendant. Investigator Davis acknowledged that Donald lived in the camper in which the gun was found and that Donald’s medication was in the camper. The Defendant lived in the second camper.

On redirect-examination, Investigator Davis testified that the Defendant did not have to own the gun in order to possess it. He said that the Defendant “could have very easily accessed that gun” and that “[w]e could have had a bad day that day.” The State asked again why Investigator Davis did not send the gun for fingerprint testing, and he responded, “The question isn’t if he owned it or if he was holding it. The question is was he in possession of that handgun. That’s the law. He was in possession of that handgun. He could grab it. It was in his direct possession.”

At the conclusion of Investigator Davis’s testimony, the State rested its case. The parties stipulated that the Defendant had prior violent felony convictions as alleged in counts one through four of the indictment and prior felony convictions as alleged in counts five through fifteen of the indictment.

Twenty-four-year-old Skyler Ballard, Donald Ballard's son, testified that his grandmother lived in the house on Highway 104 North and that his father lived with his grandmother but had a camper "behind" the house. Skyler described his father's camper as "[a]bout the size of a single-wide trailer." Defense counsel showed him a photograph of the gun Investigator Davis found inside the camper, and he identified it as his nine-millimeter Taurus handgun. He said that he bought the gun in 2021 and that he left the gun with his father soon before February 2, 2022, because he was going to a party and did not want to take the gun where he would be consuming alcohol. There was no reason his father could not possess the firearm, so Skyler thought the gun would be safe with his father. He said that the Defendant was his uncle and that he would not have left the gun at the camper if he had known the Defendant was going to be there. Skyler had handled the firearm, so his fingerprints would have been on the gun and ammunition. He acknowledged that he loved the Defendant but said that he was telling the truth and had no reason to lie.

On cross-examination, Skyler testified that he paid more than three hundred dollars for the gun but that he did not save the receipt because he did not know he was going to need it. He said that he knew the Defendant was "not supposed to be around guns" but that he left the gun with his father, not the Defendant. He acknowledged that he was not present in the camper when the police arrived on February 2 and that anyone could have been in possession of the firearm. On redirect-examination, Skylar testified that the Defendant was not present and that he had not seen the Defendant in one or two weeks when he left the gun in his father's possession.

Fifty-four-year-old Donald Ballard testified that he had known the Defendant for fifty-three years. On February 2, 2022, the police served a warrant at Donald's camper and charged the Defendant with a crime because Donald had a gun in the camper. Donald said he had possession of the gun because his son had left the gun with him. Donald did not know the Defendant was going to be in the camper when he took possession of the firearm.

Donald testified that prior to the arrival of the police on February 2, he and his friend, Mr. Renfro, had been talking inside the camper. The Defendant was not present. Donald then took a nap on the couch in the larger room. When he woke, the Defendant and Mr. Renfro were in the camper's "side room." Donald had put his son's gun in that room, but the Defendant did not know about the gun. Donald did not know the Defendant was in the camper with Mr. Renfro until the police arrived to serve the warrant. Donald said that the side room was "full of junk" and that he told Investigator Davis that everything in the camper belonged to him. He would not have had the gun in the camper if he had known the Defendant was going to be there.

On cross-examination, Donald testified that he was not a convicted felon when the police served the warrant but that he was a convicted felon at the time of the Defendant's

trial. He acknowledged telling the police that the gun belonged to him when the gun actually belonged to his son. He said he did so because the gun was in his possession and “[p]ossession is [nine]-tenths of the law.” Moreover, his son was not present to claim ownership of the gun when the police arrived. Donald said that the Defendant never had possession of the firearm and that the Defendant did not even know the gun was in the camper. He said he did not want the jury to convict the Defendant of a crime the Defendant did not commit.

On redirect-examination, Donald acknowledged that his son left the gun at the camper and that he was responsible for keeping the gun safe for his son. He did not know the Defendant was coming to the camper that day and did not get a chance to tell the Defendant the gun was there. Donald’s fingerprints would have been on the gun, but he never saw the Defendant touch the gun.

At the conclusion of Donald’s testimony, the defense rested its case, and the jury found the Defendant guilty on all fifteen counts as charged in the indictment. After a sentencing hearing, the trial court merged counts two through fifteen into count one and sentenced the Defendant as a Range III, persistent offender to twenty-eight years in confinement.

ANALYSIS

The Defendant claims that the evidence is insufficient to support his convictions because the State had to show more than his mere physical proximity to the firearm in order to prove beyond a reasonable doubt that he constructively possessed the firearm. The State argues that the evidence is sufficient. We agree with the State.

When the sufficiency of the evidence is challenged on appeal, the relevant question of the reviewing court is “whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also* Tenn. R. App. P. 13(e) (“Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the findings by the trier of fact of guilt beyond a reasonable doubt.”); *State v. Evans*, 838 S.W.2d 185, 190-92 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992).

Therefore, on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from it. *State v. Williams*, 657 S.W.2d 405, 410 (Tenn. 1983). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *State v. Pruett*, 788 S.W.2d 559, 561 (Tenn. 1990). “A jury conviction removes

the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient.” *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

The guilt of a defendant, including any fact required to be proven, may be predicated upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *State v. Pendergrass*, 13 S.W.3d 389, 92-93 (Tenn. Crim. App. 1999). The standard of review for the sufficiency of the evidence is the same whether the conviction is based on direct or circumstantial evidence or a combination of the two. *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011).

Regarding counts one through four, Tennessee Code Annotated section 39-17-1307(b)(1)(A) provides that “[a] person commits an offense who unlawfully possesses a firearm” and “[h]as been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, or a felony involving the use of a deadly weapon[.]” Regarding counts five through fifteen, Tennessee Code Annotated section 39-17-1307(c)(1) provides that “[a] person commits an offense who possesses a handgun . . . and has been convicted of a felony[.]”

Possession may be actual or constructive. *See State v. Fayne*, 451 S.W.3d 362, 370 (Tenn. 2014). Actual possession refers to a defendant’s physical control over an item whereas constructive possession requires only that the defendant have the power and intention to exercise dominion and control over the item. *Id.* “In essence, constructive possession is the ability to reduce an object to actual possession.” *State v. Brown*, 915 S.W.2d 3, 7 (Tenn. Crim. App. 1995). A person’s “mere presence” in an area where contraband was found, without more, is not sufficient to establish possession. *State v. Transou*, 928 S.W.2d 949, 956 (Tenn. Crim. App. 1996). Constructive possession is determined by the totality of the circumstances and may be based on circumstantial evidence. *Dorantes*, 331 S.W.3d at 379.

In support of his claim that the proof fails to show he constructively possessed the gun, the Defendant relies on *State v. Jones*, No. W2018-01421-CCA-R3-CD, 2020 WL 974197 (Tenn. Crim. App. Feb. 27, 2020), *no perm. app. filed*; *State v. Horton*, No. W2019-00948-CCA-R3-CD, 2021 WL 2556646 (Tenn. Crim. App. June 22, 2021), *no perm. app. filed*; and *State v. Siner*, No. W2020-01719-CCA-R3-CD, 2022 WL 252354 (Tenn. Crim. App. Jan. 27, 2022), *no perm. app. filed*. In *Jones*, the police searched a motel room in which the defendant and his codefendant were present and found drugs and a handgun. 2020 WL 974197, at *1. On direct appeal of the defendant’s convictions for possessing the drugs and the firearm, this court found the evidence insufficient, noting that the police did not find any of the contraband on the defendant’s person, that no fingerprint analysis was conducted on the contraband, and that the State did not present any proof as

to who rented the motel room, who possessed a key to the room, how long the defendant had been in the room, how long he intended to stay there, or whether he had any clothing in the room. *Id.* at *10.

In *Horton*, the police conducted surveillance on a house for several months and often saw the defendant present. 2021 WL 2556646, at *1. Law enforcement ultimately obtained a search warrant, entered the house, and found the defendant on the couch. *Id.* Officers searched the house and discovered drugs and drug paraphernalia in a heating and air unit that was in the laundry room, hydrocodone pills and a handgun in the front bedroom, and a large bag of marijuana underneath a couch cushion where the Defendant had been sitting or sleeping. *Id.* at *1, 7. The Defendant did not claim any of the items and told an officer, “I just smoke my weed.” *Id.* at *2. Citing *Jones*, this court reversed the defendant’s convictions related to the drugs and paraphernalia in the laundry room because the State failed to present proof “to establish a link between the Defendant and the contraband hidden in the heating unit.” *Id.* at *8. However, this court affirmed the convictions related to the hydrocodone and firearm in the front bedroom because officers found the defendant’s clothing, a wallet containing his identification, and medication with his name on it in the bedroom. *Id.* This court also affirmed the conviction related to the marijuana under the couch cushion. *Id.* at *8. In doing so, this court recalled a police officer’s acknowledging at trial that a person sitting on the couch would not have been able to feel the bag of marijuana through the cushion but that the marijuana would have been at the person’s right hip. *Id.*

In *Siner*, the police stopped the defendant’s girlfriend for speeding. 2022 WL 252354, at *1. The defendant was sitting in the front passenger seat, and a woman was sitting in the backseat. *Id.* Police officers smelled marijuana, searched the car, and found a loaded gun underneath the front passenger seat. *Id.* The firearm was within reach of the defendant and the woman sitting in the backseat. *Id.* On appeal, this court found the evidence insufficient to support the conviction of possession of a firearm because there was no evidence linking the defendant to the gun or suggesting that he was aware the gun was in the car. *Id.* at *7. This court noted that the police did not attempt to obtain fingerprints from the gun or establish the gun’s ownership, that the defendant was neither the driver nor the owner of the car, that the gun was not in plain view, and that the defendant never made any movements to indicate he was reaching under his seat where the gun was found. *Id.*

The Defendant asserts that the evidence in the present case “is even less compelling than what [this court] found insufficient in *Jones*, *Horton*, and *Siner*, because this case involves multiple occupants, a non-owner defendant, no forensic testing, and an undisputed third-party ownership of the firearm.” The State asserts that *Jones*, *Horton*, and *Siner* are distinguishable from this case and that *Horton* even undermines the Defendant’s argument. We agree with the State.

Taken in the light most favorable to the State, the evidence shows that Investigator Davis approached the camper and surprised the Defendant. Upon seeing the officer, the Defendant immediately stood up from the chair in which he had been sitting and was arrested. Although it was dark inside the camper, Investigator Davis saw a gun in the chair. Unlike the contraband in *Jones*, *Horton*, and *Siner*, the gun in this case was in plain view. Moreover, unlike the guns in *Jones* and *Siner*, in which this court held that the evidence was insufficient to show the defendants constructively possessed the firearms, the gun in this case was in a location and a position such that it was easily accessible to the Defendant. The Defendant attempts to distinguish his case from *Horton*, in which this court held that the evidence was sufficient to support the defendant's conviction of possession of marijuana, by arguing that Mr. Horton's statement "I just smoke my weed" demonstrated that he knew the bag of marijuana was under the couch cushion. However, that argument is unpersuasive. Like the bag of marijuana in *Horton*, the gun in this case was at the Defendant's right hip while he was sitting in the chair. Therefore, under the totality of the circumstances, we conclude that a reasonable jury could have found that the Defendant constructively possessed the firearm. The evidence is sufficient to support his convictions.

Although not raised by either party, we note that the trial court stated at sentencing that the Defendant had been convicted of a Class B felony and that his range of punishment was twenty to thirty years. *See* Tenn. Code Ann § 40-35-112(c)(2). The trial court then imposed a sentence of twenty-eight years for count one. The trial court merged counts two through fifteen into count one and wrote in the Special Conditions box on each judgment "Total effective sentence of 28 years to serve at 85% release eligibility." However, the trial court did not pronounce sentences for the Defendant's Class B felony convictions in counts two through four or his Class E felony convictions in counts five through fifteen. Accordingly, we remand the case to the trial court for sentencing in counts two through fifteen and for entry of corrected judgments to reflect the sentence for each count pursuant to *State v. Berry*, 503 S.W.3d 360, 364 (Tenn. 2015).

CONCLUSION

Upon review, we affirm the judgment of the trial court.

s/ JOHN W. CAMPBELL

JOHN W. CAMPBELL, SR., JUDGE