

Judgment rendered September 30, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 57,055-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA Appellee

versus

ANTONIO LADART MOORE Appellant

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Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 248,734

Honorable Charles A. Smith, Judge

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Before PITMAN, STEPHENS, and HUNTER, JJ.

PITMAN, C.J., dissents with written reasons.

HUNTER, J.

Defendant, Antonio Ladart Moore, was charged with possession of a firearm or carrying a concealed weapon by a convicted felon, in violation of La. R.S. 14:95.1. At trial, the defendant was convicted of attempted possession of a firearm or carrying a concealed weapon by a convicted felon and sentenced to 7 years at hard labor with credit for time served. The defendant appeals, alleging insufficient evidence, denial of a special jury charge, and an unconstitutionally excessive sentence. For the following reasons, we reverse the defendant's conviction, vacate the sentence, and enter a judgment of acquittal.

FACTS

On September 21, 2023, the defendant was charged with possession of a firearm or carrying a concealed weapon by a convicted felon, in violation of La. R.S. 14:95.1. According to the bill of information, the alleged firearm was a Springfield Armory 9mm, and the defendant had a previous conviction of aggravated flight from an officer, entered August 29, 2022, for which the defendant was still on probation and facing revocation. Trial began on September 22, 2025, with the defendant pleading not guilty. Bossier Sheriff's Deputy Deanna McLaughlin ("Deputy McLaughlin") testified that she stopped the defendant for an obscured license plate, discovered his driver's license was suspended, and that he lacked the required vehicle paperwork. She also testified that the defendant denied knowing about the firearm found in the vehicle. Based on the evidence, the jury returned a verdict finding the defendant guilty of attempted possession of a firearm or carrying a concealed weapon by a convicted felon.

The trial court ordered a Presentence Investigation (PSI) report, and the defense filed a motion for post-verdict judgment of acquittal and a motion for a new trial, alleging the evidence failed to prove knowledge, constructive possession, or specific intent regarding the firearm. The court denied both motions, and the defendant now appeals, alleging error in his firearm-possession conviction, the denial of a requested jury instruction on mere presence and dominion and control, and the constitutionality and excessiveness of his seven-year sentence.

DISCUSSION

Sufficiency of Evidence

The defendant argues the State failed to prove he knowingly possessed, constructively possessed, or specifically intended to possess the firearm. The standard of appellate review for a sufficiency of the evidence claim 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 proven beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); *State v. Ward*, 50,872 (La. App. 2 Cir. 11/16/16), 209 So. 3d 228, writ denied, 17-0164 (La. 9/22/17), 227 So. 3d 827; *State v. Charleston*, 33,393 (La. App. 2 Cir. 6/23/00), 764 So. 2d 324, writ denied, 00-2603 (La. 9/14/01), 796 So. 2d 672; *State v. Bryant*, 607 So. 2d 11 (La. App. 2 Cir. 1992), writ denied, 632 So. 2d 760 (La. 1994).

When the direct evidence is thus viewed, the facts established by the direct evidence and inferred from the circumstances established by the evidence must be sufficient for a rational trier of fact to conclude beyond a reasonable doubt that the defendant was guilty of

every essential element of the crime. *State v. Sutton*, 436 So. 2d 471 (La.1983); *State v. Dock*, 49,784 (La. App. 2 Cir. 6/3/15), 167 So. 3d 1102; *State v. Speed*, 43,786 (La. App. 2 Cir. 1/14/09), 2 So. 3d 582, *writ denied*, 09-0372 (La. 11/6/09), 21 So. 3d 299. Ultimately, all evidence, direct and circumstantial, must meet the *Jackson* reasonable doubt standard to support a conviction. *State v. Jacobs*, 504 So. 2d 817 (La. 1987); *State v. Copes*, 566 So. 2d 652 (La. App. 2 Cir. 1990).

To support a conviction under La. R.S. 14:95.1, the State must prove beyond a reasonable doubt that defendant (1) had possession of a firearm; (2) a prior conviction for a crime of violence or other enumerated felony; (3) absence of the ten-year statutory period of limitation; and (4) the general intent to commit the crime. With respect to the third element, the State must prove that ten years have not elapsed since the date of completion of the punishment for the prior felony conviction. *State v. Woods*, 23-41 (La. App. 5 Cir. 11/15/23), 376 So. 3d 1156, *writ denied*, 23-1615 (La. 5/29/24), 385 So. 3d 700.

“La. R.S. 14:95.1 requires only general criminal intent, which means that the circumstances indicate that the accused ‘in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.’” *State v. Abram*, 32,627 (La. App. 2 Cir. 10/27/99), 743 So. 2d 899, *writ denied*, 00-121 (La. 9/29/00), 769 So.2d 549. General intent means that the offender knew that a firearm was in his presence and that the offender had the general criminal intent to possess the weapon. *State v. Evans*, 29,675 (La. App. 2 Cir. 9/24/97), 700 So. 2d 1039, *writ denied*, 97-

2942 (La. 1/9/98), 705 So. 2d 1121, *State v. Watson*, 08-214 (La. App. 5 Cir. 8/19/08), 993 So. 2d 784. However, when the perpetrator has not carried the firearm on his person, the state must show that the defendant's intent amounted to an intent to possess rather than a mere acquiescence to the fact that there was a firearm in his presence. *State v. Neeley*, 30,008 (La. App. 2 Cir. 12/23/97), 704 So. 2d 446; *State v. Heacox*, 543 So. 2d 101 (La. App. 3 Cir. 1989).

La. R.S. 14:95.1 does not make "actual" possession a necessary element of the offense or specifically require that the defendant have the firearm on his person to be in violation. *State v. Day*, 410 So. 2d 741, 743 (La. 1982). Constructive possession, as opposed to actual possession, is sufficient to satisfy the possession element. *Id.*; *State v. Washington*, 605 So. 2d 720 (La. App. 2 Cir. 1992), *writ denied*, 610 So. 2d 817 (La. 1993).

Constructive possession of a firearm occurs when the firearm is subject to the defendant's dominion and control, even if only temporarily or shared. *State v. White*, 24-01588 (La. 12/11/25), 424 So. 3d 642; *State v. Johnson*, 03-1228 (La. 4/14/04), 870 So. 2d 999. Mere presence in the area where a firearm is found, or mere association with an individual found to be in possession of a firearm, does not necessarily establish possession. *State v. Morris*, 43,522 (La. App. 2 Cir. 9/17/08), 996 So. 2d 311. The State must prove that the offender was aware that a firearm was in his presence and that he had the general criminal intent to possess the weapon; *i.e.*, a knowing or intentional possession is necessary for a violation of La. R.S. 14:95.1. *State v. Rainey*, 56,183 (La. App. 2 Cir. 2/26/25), 409 So. 3d 299. The determination of whether there is "possession" sufficient to convict depends

on the particular facts of the case. *State v. Trahan*, 425 So. 2d 1222 (La. 1983).

To sustain a conviction for *attempted* possession of a firearm by a convicted felon, the state is required to prove that the defendant had the *specific* intent to possess the weapon(s) and that he committed an overt act toward the completion of that offense. La. R.S. 14:27. Specific intent is the state of mind that exists when the circumstances indicate that the offender actively desired the prescribed consequences to follow his act or failure to act. La. R.S. 14:10(1). Because specific intent is a state of mind, it need not be proven as a fact but may be inferred from the circumstances of the transaction and the actions of the defendant. *State v. Graham*, 420 So. 2d 1126 (La. 1982).

In this case, the defendant was found guilty of attempted possession of a firearm located in the center console near the dashboard of the vehicle he was operating. However, the defendant was one of two occupants in the vehicle when Deputy McLaughlin stopped the defendant for an obscured license plate. Deputy McLaughlin testified that defendant was aware of the gun in the car but claimed it was owned by his wife, Rebecca Horsley, then said it belonged to and pointed in the direction of the other passenger, Cheryl Stutton. Deputy McLaughlin further stated that her observation of the firearm's location was within arm's reach of the defendant. The firearm was not on the defendant's person but was in a closed compartment accessible to either occupant. Although the defendant retrieved personal items from the vehicle, those items were located separately from the firearm. Additionally, Rebecca Horsley submitted an affidavit asserting that the

defendant was unaware of the firearm and would not have knowingly traveled with it.

In *State v. White, supra*, the Louisiana Supreme Court reversed the defendant's conviction for possession of a firearm by a convicted felon, holding that constructive possession requires more than mere awareness, proximity, or acquiescence. Because the firearm was found in the defendant's partner's dresser, which appeared to be under her exclusive control, and the State presented no evidence that the defendant used the dresser or other furniture in the room, it failed to establish that he exercised dominion and control over the firearm or intended to possess it.

In *State v. Fisher*, 94-2255 (La. App. 1 Cir. 12/15/95), 669 So. 2d 460, *writ denied*, 96-0958 (La. 9/20/96), 679 So. 2d 432, the First Circuit Court of Appeal found that, although the defendant was pulled over for driving erratically, could see and potentially reach the pistol located in his sister's open purse, and possessed the gun's magazine, the evidence was insufficient to establish that he exercised dominion and control over the firearm. Thus, the mere ability to access or reach the gun did not establish constructive possession.

Upon review, we note that neither Louisiana jurisprudence nor La. R.S. 14:95.1 construes a felon's mere acquiescence to the presence of a firearm or a convicted felon's awareness he is "around" a firearm as a violation of the statute. The firearm was not found on the defendant's person or among his personal items. Rather, the firearm was found inside a compartment of a vehicle the defendant was driving, and the State did not present any evidence to establish who owned the vehicle. Additionally, the State offered no evidence to establish whether the defendant had reason or

occasionally accessed the compartment to use the firearm, nor did they interview other witnesses or use fingerprint or DNA evidence. Even in the light most favorable for the prosecution, at best the State has established only a mere possibility the defendant could have used the gun. We find that this evidence alone is insufficient to establish constructive possession or dominion and control of the firearm by the defendant. Therefore, we reverse defendant's conviction for attempted possession of a firearm by a convicted felon, vacate the corresponding sentence, and enter a judgment of acquittal.

Due to our finding with regard to sufficiency of the evidence, we pretermitted discussion of the defendant's remaining assignments of error.

CONCLUSION

For the reasons set forth herein, the defendant's conviction is hereby REVERSED, his sentence is vacated, and we enter a judgment of acquittal. We remand this matter to the trial court for further proceedings.

**CONVICTION REVERSED; SENTENCE VACATED;
JUDGMENT OF ACQUITTAL ENTERED.**

PITMAN, C. J., dissents.

I dissent.

The majority opinion misstates applicable law, misstates quotations and references case citations incorrectly. Most importantly, the majority states contradictory versions of trial testimony by the investigating and arresting sheriff's deputy. The actual testimony at trial proves the State's case beyond a reasonable doubt. For these reasons, I believe this conviction should not be reversed.