

IN THE COURT OF APPEALS OF IOWA

No. 7-691 / 06-1907
Filed November 15, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ROBERT CLYDE HANSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Winneshiek County, Lawrence H. Fautsch, Judge.

Robert Hanson appeals from the district court's judgment and sentence for failure to affix a drug tax stamp. **AFFIRMED.**

David Strand of Strand Law Office, Decorah, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney General, and Andrew Vandermaaten, County Attorney for appellee.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

The State charged Robert Hanson with three drug-related crimes arising out of the search of a home. The State later agreed to dismiss two of the charges and Hanson agreed to a trial on the minutes of testimony on the third charge, failure to affix a drug tax stamp. See Iowa Code §§ 453B.3 and 453B.12 (2005). The district court found him guilty, and this appeal followed.

On appeal, Hanson (1) challenges the sufficiency of the evidence supporting the district court's finding of guilt, and (2) makes a chain of custody objection to certain evidence.

I. Sufficiency of the evidence. “The district court’s finding of guilt is binding upon us unless we find there was not substantial evidence in the record to support such a finding.” *State v. Dalton*, 674 N.W.2d 111, 116 (Iowa 2004).

Hanson argues the minutes of testimony failed to show he had exclusive possession of the house that was searched and in which the drugs were found. We disagree. The minutes reveal that a confidential informant advised the sheriff’s office of Hanson’s address. The only person found at the home on the day of the search told officers she had “just stopped by to see Robert Hanson.” Finally, Hanson admitted there were drugs at “his residence.” This amounts to substantial evidence in support of a finding that Hanson had exclusive possession of the home.

Hanson also argues that the minutes of testimony failed to show he was in possession of marijuana found during the search. Iowa Code §§ 453B.3, 453B.12. “If the premises on which [controlled] substances are found are in the exclusive possession of the accused, knowledge of their presence on such

premises coupled with his ability to maintain control over such substances may be inferred” *State v. Carter*, 696 N.W.2d 31, 39 (Iowa 2005) (quoting *State v. Reeves*, 209 N.W.2d 18, 23 (Iowa 1973)).

We have already found substantial evidence of Hanson’s exclusive possession of the house in which the drugs were found, leading to an inference he had knowledge of and control over the marijuana. Additionally, as noted, Hanson admitted he knew about the marijuana in his home. Specifically, he said the marijuana was “ditch weed” and he used it as an air freshener. In light of these admissions, a reasonable fact-finder did not simply have to rely on an inference of knowledge and control. Finally, the additional minutes reveal that “the bag containing the marijuana did not have a drug tax stamp.” This evidence amounts to substantial evidence that Hanson possessed a marijuana bag that was not affixed with a drug tax stamp.

II. Chain-of-custody objection. Preliminarily, the State asserts Hanson failed to preserve error on his chain-of-custody objection. We agree with the State’s assertion, as the objection was not raised in the district court and Hanson stipulated to the contents of the minutes of testimony. See *State v. Brown*, 656 N.W.2d 355, 360-61 (Iowa 2003) (“Generally a stipulation to the admission of testimony at trial constitutes a waiver of any objection to the testimony raised prior to trial.”). Although, in *Brown*, the court found an exception to the error preservation rule notwithstanding a stipulation to the minutes, we note that *Brown* raised pretrial objections to the challenged testimony and did not “affirmatively and specifically consent” to the admission of the challenged testimony. 656 N.W.2d at 362. As noted, no such objections were made by Hanson.

We affirm Hanson's judgment and sentence for failure to affix a drug tax stamp.

AFFIRMED.