

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Lee Forzon Baker Jr. v. State of Florida

No. 1D2024-0407 · No. 1D2024-0407 · Decided April 2, 2025

SUMMARY

The Florida First District Court of Appeal affirmed Lee Forzon Baker Jr.'s convictions and sentences for possession of controlled substances. The court held that the evidence created a jury question regarding constructive possession and upheld the mandatory \$100 cost of prosecution under section 938.27(8), Florida Statutes, despite the State's failure to request the cost at sentencing.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Per Curiam; Chief Judge Osterhaus; Judge Roberts; Judge Bilbrey
JURISDICTION	Florida First District Court of Appeal
DECIDED	April 2, 2025
DOCKET	1D2024-0407
DISPOSITION	affirmed
PROCEDURAL POSTURE	Baker appealed his convictions and sentences for three counts of possession of controlled substances, challenging the sufficiency of the evidence and the imposition of the mandatory \$100 cost of prosecution.
STANDARD OF REVIEW	The denial of a motion for judgment of acquittal is reviewed de novo to determine whether the conviction is supported by competent, substantial evidence. The evidence and all reasonable inferences are viewed in the light most favorable to the State.
PRECEDENTIAL VALUE	published
PARTIES	Lee Forzon Baker Jr. v. State of Florida

TOPICS

criminal procedure

evidence

standard of review

appellate procedure

sentencing

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

evidence

QUESTIONS PRESENTED

1. Whether competent, substantial evidence supported Baker's convictions for constructive possession of the controlled substances found in his vehicle.
2. Whether the trial court erred in imposing the mandatory \$100 minimum cost of prosecution under section 938.27(8), Florida Statutes, when the State did not request the cost at sentencing.

HOLDINGS

1. The evidence was sufficient to create a jury question regarding whether Baker knew the controlled substances were present in his vehicle and exercised dominion and control over them; therefore, the denials of the motions for judgment of acquittal were proper.
2. The trial court properly imposed the mandatory \$100 minimum cost of prosecution under section 938.27(8), Florida Statutes, even though the State did not request the cost at sentencing.

KEY QUOTATIONS

“We review the denial of judgment of acquittal de novo to determine whether the conviction is supported by competent, substantial evidence.” (at 1)

“We “must consider the evidence and all reasonable inferences from the evidence in a light most favorable to the State.”” (at 1)

“The State’s evidence created a fact question for the jury of whether Appellant knew the controlled substances were present in his vehicle and whether he had dominion and control over them.” (at 2)

FACTUAL BACKGROUND

A police officer observed Baker run a stop sign and, after the officer activated his lights, Baker led the officer on a slow-speed chase before stopping. Baker then refused to exit his vehicle, fled, and led the officer on a high-speed chase, sometimes exceeding 100 miles per hour, until the vehicle became disabled. Controlled substances were found in plain sight on the back-seat floor and in a backpack on the back-seat floor; although a passenger was present, she testified that the contraband and backpack were not hers and that she had not placed them in the vehicle.

PROCEDURAL HISTORY

The Circuit Court for Bay County denied Baker's motions for judgment of acquittal at the close of the State's evidence and again at the close of all the evidence, entered convictions on three possession counts, and imposed sentences including the \$100 minimum cost of prosecution. The First District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Wallace v. State, 240 So. 3d 872, 873 (Fla. 1st DCA 2018)
- Perez v. State, 138 So. 3d 1098, 1100 (Fla. 1st DCA 2014)
- Knight v. State, 186 So. 3d 1005, 1012 (Fla. 2016)
- Smith v. State, 175 So. 3d 900, 903 (Fla. 1st DCA 2015)
- Parks v. State, 371 So. 3d 392, 394 (Fla. 1st DCA 2023)
- Parks v. State, 2024 WL 370043 (Fla. Jan. 31, 2024)

OPINION

PER CURIAM.

FIRST DISTRICT COURT OF APPEAL STATE OF FLORIDA
 _____ No. 1D2024-0407 _____ LEE
 FORZON BAKER JR., Appellant, v. STATE OF FLORIDA, Appellee.

_____ On appeal from the Circuit Court for Bay County. Brantley S. Clark, Jr., Judge. April 2, 2025 PER CURIAM. Appellant challenges his convictions and sentences for three counts of possession of various controlled substances found in his vehicle.

He argues that the State’s evidence was insufficient to establish constructive possession of the controlled substances and that the trial court erred in denying his motions for judgment of acquittal at the close of the State’s evidence and as renewed at the close of all the evidence. He also appeals the portion of his sentences imposing the \$100 minimum cost of prosecution under section 938.27(8), Florida Statutes on grounds that the State did not request this cost at sentencing.

We review the denial of judgment of acquittal de novo to determine whether the conviction is supported by competent, substantial evidence. Wallace v. State, 240 So. 3d 872, 873 (Fla. 1st DCA 2018). We “must consider the evidence and all reasonable inferences from the evidence in a light most favorable to the State.” Perez v. State, 138 So. 3d 1098, 1100 (Fla.

1st DCA 2014). The trial court applied the correct standard to the State’s evidence. The trial testimony established that Appellant was observed running a stop sign by a police officer in a marked patrol vehicle. The officer activated his vehicle lights, but Appellant led him on a slow speed chase for several blocks before stopping. Appellant was instructed to turn off his engine and exit his vehicle, but he refused to do so.

Instead, Appellant suddenly fled and led the officer on a high-speed chase for many blocks, failing to stop at several stop signs and sometimes exceeding 100 miles per hour. When Appellant’s vehicle stopped after becoming disabled, he was removed from his vehicle.

The controlled substances were found in plain sight on the floor of the back seat and in a backpack on the floor of the back seat. A passenger was in the front passenger seat, but she testified at trial

that the contraband was not hers and that she did not place the contraband or backpack in the vehicle.

The State's evidence created a fact question for the jury of whether Appellant knew the controlled substances were present in his vehicle and whether he had dominion and control over them. See *Knight v. State*, 186 So. 3d 1005, 1012 (Fla. 2016) (upholding conviction for constructive possession where evidence of "dominion and control" and "knowledge that the contraband was within [defendant's] presence" was presented to the jury); see also *Smith v. State*, 175 So.

3d 900, 903 (Fla. 1st DCA 2015) ("[W]hen contraband is located in plain view, control over the item may be inferred from evidence that the defendant has exclusive control over the place where it was discovered."). Thus, we affirm the trial court's denials of the motions for judgment of acquittal. Addressing Appellant's second issue on appeal, we affirm the portion of the sentences imposing the mandatory \$100 cost of prosecution where the State did not request this cost at sentencing.

We decided this issue in *Parks v. State*, 371 So. 3d 392, 394 (Fla. 1st DCA 2023), rev. granted SC2023-1355, 2024 WL 370043 (Fla. Jan. 31, 2024). 2 AFFIRMED. OSTERHAUS, C.J., and ROBERTS and BILBREY, JJ., concur. _____ Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331. _____ Jessica J. Yeary, Public Defender, David A. Henson, Assistant Public Defender, and Megan Long, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Ryan Roy, Assistant Attorney General, Tallahassee, for Appellee. 3