

COURT OF APPEALS OF OREGON

State v. Chan

349 Or. App. 715 (2026) · No. A182742 · Decided May 20, 2026

SUMMARY

The Oregon Court of Appeals affirmed convictions for attempted delivery and possession of methamphetamine. The court held that evidence of defendant's proximity to the drugs, excessive sweating indicating recent drug use, drug-packaging materials, cash, and drug-related messages was sufficient to establish constructive possession. The same evidence, including drugs divided into separate packages and matching unused bags, was sufficient to establish a substantial step toward delivery.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	O'Connor, J.; Shorr, Presiding Judge; Powers, Judge; O'Connor, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	May 20, 2026
DOCKET	A182742
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment following a bench trial and challenged the denial of his motions for judgment of acquittal on charges of possession of methamphetamine and attempted delivery of methamphetamine.
STANDARD OF REVIEW	The court examined the evidence in the light most favorable to the state to determine whether a rational factfinder, accepting reasonable inferences and credibility choices, could have found the essential elements of the crimes beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Anthony Tszweng Chan, aka Anthony T. Chan, aka Anthony Tszqeng Chan, aka Anthony Tzweng Chan, aka Tony Chan v. State of Oregon

TOPICS

- criminal procedure
- evidence
- standard of review
- appellate procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Appellate practice

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to establish that defendant constructively possessed the methamphetamine found in the vehicle.
2. Whether the evidence was sufficient to establish that defendant's possession constituted a substantial step toward delivery of methamphetamine.

HOLDINGS

1. The evidence, viewed in the light most favorable to the state, was legally sufficient for a factfinder to infer beyond a reasonable doubt that defendant constructively possessed the methamphetamine found in the vehicle.
2. The evidence was legally sufficient for a factfinder to conclude that defendant intentionally took a substantial step toward delivery of methamphetamine.

KEY QUOTATIONS

“We review whether the evidence is sufficient for a conviction “by examining the evidence in the light most favorable to the state to determine whether a rational trier of fact, accepting reasonable inferences and reasonable credibility choices, could have found the essential elements of the crime beyond a reasonable doubt.”” (718)

“Mere proximity to a controlled substance is not a sufficient basis from which to draw an inference of constructive possession.” (719)

“Rather, a substantial step toward delivery of a controlled substance “occurs when a person’s conduct (1) advances the criminal purpose charged and (2) provides verification of the existence of that purpose.”” (723)

“That is legally sufficient evidence for a factfinder to conclude that defendant took a substantial step toward the delivery of methamphetamine.” (724)

FACTUAL BACKGROUND

After a traffic stop, defendant consented to a search of the vehicle he was driving and a search of his phone. Officers found 13.7 grams of methamphetamine, another 7.84 grams of untested drug-like substance, the substances divided among multiple bags or bindles, matching unused bags, and \$909 in cash. Defendant appeared extremely sweaty, admitted he was a drug user, and his phone contained photographs of drugs and cash and text messages concerning acquiring drugs for others. The trial court found him guilty of possession and attempted delivery of methamphetamine after a bench trial.

PROCEDURAL HISTORY

The Multnomah County Circuit Court granted defendant's motions for judgment of acquittal on several weapon-related counts and found him not guilty of heroin-related counts. After a bench trial, the court found him guilty

of attempted delivery of methamphetamine and possession of methamphetamine, merged the possession verdict into the attempted-delivery verdict, and denied defendant's motions for judgment of acquittal on those counts. Defendant appealed, and the Oregon Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Cunningham, 320 Or. 47, 63, 880 P.2d 431 (1994), cert. den., 514 U.S. 1005 (1995)
- State v. Tacia, 330 Or. App. 425, 431, 543 P.3d 713 (2024)
- State v. Fry, 191 Or. App. 90, 95, 80 P.3d 506 (2003)
- State v. Bivins, 191 Or. App. 460, 468, 83 P.3d 379 (2004)
- State v. Borden, 307 Or. App. 526, 476 P.3d 979 (2020)
- State v. Kulick, 314 Or. App. 680, 497 P.3d 789 (2021)
- State v. Keller, 280 Or. App. 249, 380 P.3d 1144 (2016)
- State v. Miller, 157 Or. App. 489, 493, 972 P.2d 896 (1998), rev. den., 328 Or. 365 (1999)
- State v. Hubbell, 371 Or. 340, 361-62, 537 P.3d 503 (2023)
- State v. Buell, 317 Or. App. 667, 670-71, 506 P.3d 505 (2022), rev. den., 371 Or. 771 (2023)
- State v. Taylor, 308 Or. App. 61, 67, 479 P.3d 620 (2020)
- State v. Wesley, 326 Or. App. 500, 508-09, 533 P.3d 786 (2023), rev. den., 371 Or. 511 (2023)
- State v. Dippre, 320 Or. App. 317, 322-23, 512 P.3d 835 (2022)