# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

### COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

FREDDIE M. THOMAS,

Appellant.

### **DOCKET NUMBER WD7**4575

# MISSOURI COURT OF APPEALS WESTERN DISTRICT

**DATE:** January 2, 2013

# APPEAL FROM

The Circuit Court of Pettis County, Missouri The Honorable Robert L. Koffman, Judge

# **JUDGES**

Division IV: Welsh, C.J., and Pfeiffer and Martin, JJ.

CONCURRING.

### **ATTORNEYS**

Chris Koster, Attorney General Jessica P. Meredith, Assistant Attorney General Jefferson City, MO

Attorneys for Respondent,

William J. Swift, Assistant Public Defender Columbia, MO

Attorney for Appellant.



# MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,		)
	Respondent,	)
v.	Respondent,	) OPINION FILED:
FREDDIE M. THOMAS,		) January 2, 2013
,		)
	Appellant.	)

WD74575 Pettis County

Before Division IV Judges: James Edward Welsh, Chief Judge, and Mark D. Pfeiffer

and Cynthia L. Martin, Judges

Freddie M. Thomas ("Thomas") appeals the judgment of the Circuit Court of Pettis County, Missouri ("trial court"), entered upon a jury verdict finding him guilty of manufacturing a controlled substance, and possession of a controlled substance with the intent to deliver. Having been found by the trial court to be a prior and persistent offender, Thomas was sentenced to twelve years imprisonment on each count, to be served concurrently. Thomas challenges the sufficiency of the evidence presented that he aided or encouraged two other persons who were at the scene in committing the offenses for which he was convicted.

### AFFIRMED.

## **Division IV holds:**

To make a submissible case of accomplice liability, the State must show that the defendant associated himself with the venture or participated in the crime in some manner. An indictment or information may charge a defendant either as a principal or as an aider and encourager with the same legal effect. In determining whether the evidence is sufficient to support a conviction for the charged offense based on accomplice liability, evidence of the defendant's presence at the scene of the crime, coupled with his association with the individuals who committed the offense, either before, during, or after its occurrence, may be considered by the jury.

Thomas and two other men were all found in the kitchen where the marijuana and supplies were located. Thomas admitted to the detectives that he was sitting at the kitchen table helping package marijuana for one of the other men to sell. A jury could have reasonably inferred from the evidence that Thomas and the other two men were acting in concert to manufacture marijuana by packaging it. Because all persons who act in concert to commit a crime are equally guilty, under the evidence, the jury was free to convict Thomas as an accomplice for aiding, encouraging, or participating with the other two men in the crime. Therefore, the trial court did not err in denying Thomas's motion for judgment of acquittal and sentencing him for manufacturing a controlled substance.

A large plastic bag containing fifteen individually packaged marijuana baggies was found in Thomas's pocket when he was searched. Although Thomas told the detectives that the marijuana was for his personal use, the detectives opined that the quantity of marijuana Thomas possessed, together with the way in which it was packaged, was a seller's amount. Under the doctrine of accomplice liability, this evidence was sufficient to raise a reasonable inference from which the jury could find that Thomas possessed and was aiding or encouraging the other two men in the possession of more than five grams of marijuana for sale to other persons. Therefore, the trial court did not err in denying Thomas's motion for judgment of acquittal and sentencing him for possessing marijuana with intent to deliver.

Opinion by: Mark D. Pfeiffer, Judge

January 2, 2013

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