

conviction of the defendant, who was aboard a sailboat which traveled from Mexico to California without clearing customs and which carried a large amount of marihuana. See *United States v. DeBerry*, 487 F. 2d 448 (C.A. N.Y. 1973) for a similar case involving an airplane.

United States v. Suarez, 487 F. 2d 236 (C.A. Fla. 1973)

Evidence that the defendant was seen entering and leaving the house of a known narcotics dealer carrying a small paper bag was insufficient to sustain a conviction for possession with intent to distribute.

United States v. Ogden, 484 F. 2d 1274 (C.A. Calif. 1973)

Evidence that the defendant had been aware of the activities of her husband in growing and harvesting marihuana, had been seen traveling with him at the time of their arrest, and had in her possession claim checks for baggage containing either contraband or paraphernalia for making marihuana bricks was sufficient to sustain a conviction for possession with intent to distribute.

McDowell v. United States, 472 F. 2d 1157 (C.A. Pa. 1973)

Evidence demonstrated that control of the drug need not be exclusive to show constructive possession but must be more than a mere proximity.

United States v. Davis, 486 F. 2d 725 (C.A. Ind. 1973)

Evidence that the defendant lived in an apartment where heroin and marked money were found in plain view, together with testimony of an informer, was sufficient to sustain a conviction for possession with intent to distribute.

Walker v. United States, 489 F. 2d 714 (C.A. Mo. 1974)

Evidence that the defendant had stayed at an apartment where heroin was found in plain view, together with a statement from the resident of the apartment proclaiming innocence, was sufficient to show that the defendant had dominion and control of the heroin.

Intent to Distribute

The other crucial element in 21 USC 841(a)(1) is the intent to distribute a controlled substance. The validity of establishing intent to distribute depends upon whether the amount and value of a controlled substance will support an inference of an intent to distribute as distinguished from mere possession for personal use. *United States v. Blake*, 484 F. 2d 50 (C.A. Mo. 1973). Other factors disclosing an intent to distribute are the purity of the substance, the packaging of the product, the presence of cutting or manufacturing materials, and the physical signs of the defendant's drug use. The following cases illustrate these points:

United States v. Hutchinson, *supra*

Evidence of large quantities of cocaine found in the defendant's residence could tend to show an intention to distribute cocaine.

United States v. Polite, 489 F. 2d 679 (C.A. Fla. 1974)

Evidence that the confiscated heroin was 94.5 percent pure was relevant to whether possession was with intent to distribute or for personal use of the defendant.

United States v. Martinez, 434 F. 2d 199 (9th Cir. 1970)

Evidence that the defendant possessed 120,000 barbiturate tablets and 30,000 amphetamine tablets was by itself sufficient to sustain a conviction of possession with intent to distribute. See also *United States v. Ortiz*, 445 F. 2d 1100 (10th Cir. 1971), 8.5 pounds of methamphetamine.

United States v. Moses, 360 F. Supp. 301 (D.C. Pa. 1973)

Evidence that the defendant had 51 glassine packets containing 22 grams of heroin, that he was not a user of heroin, that the heroin was packaged in the manner commonly used in the illegal street distribution of drugs, and that he was armed was sufficient to establish beyond a reasonable doubt that the defendant intended to distribute the heroin in his possession.