

Constructive possession

INSTRUCTION NO. \_\_\_\_\_

The prosecutor does not have to prove that the defendant(s) actually “possessed” controlled substances. The prosecutor may also prove “possession” with evidence that the defendant participated with others in possessing the controlled substance, and with knowledge that this activity was occurring. That is, you may find the defendant(s) guilty of possession if the prosecutor proves beyond reasonable doubt that the controlled substance was found in a place, or under circumstances supporting the conclusion that the defendant(s) had the ability and the interest to exercise dominion and controlled over it.

Committee note: This instruction applies to all constructive possession cases under Title 58, ch. 37, Utah Code.