





(Emphasis added.)

Petitioner argues that either possession or control of the firearm is a possible offense under the Rhode Island statute, and that conviction for control of the firearm would not make her deportable. We hold that "control" of the firearm under the Rhode Island law constitutes constructive possession of a firearm and, thus, a violation of 8A-2-7Po and 8A-2-7A, R.I. Code.

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<sup>1</sup>Appellate review of deportation determinations is curtailed by Section 440(a) of the Antiterrorism and Effective Death Penalty Act of 1996, Pub.L.No. 104-152, 110 Stat. 1214, 1277 (codified as amended in 28 U.S.C. § 1225(a)(2)(A)(i)).

constructive possession, with the latter involving the concept of control. "[W]hile actual possession involves physical contact or like

intimate association with the object possessed, constructive possession may be shown by evidence of an exercise of indirect dominion or control, either personally or through others, over objects not touched or otherwise directly controlled." Russell G. Donaldson, What Constitutes Actual or Constructive Possession of Unregistered or Otherwise Prohibited Firearm in Violation of

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<sup>2</sup> Like conclusions have been reached in cases involving possession of marijuana, cocaine and other contraband. See,

## II.

### The State Law Conviction

As noted, Alejo argues that the separate references to possession and control in the Rhode Island statute mean that conviction for control of a firearm cannot mean conviction for possession of a firearm. See supra. We disagree. The statute simply describes both actual possession, "in his or her possession", and constructive possession, "under his or her control."

We find confirmation for this view in decisions of the Rhode Island Supreme Court. "Possession of an object can be either actual or constructive. Constructive possession of an object occurs when an individual exercises dominion and control over such object even though it is not within his immediate physical possession." State v. [redacted] 1980-1981, 108 R.I. 128, 418 A.2d 128, 131 (1980).

an item, is tantamount to actual possession. Accordingly, Alejo's conviction for possession of a firearm by an alien under R.I.G.L. § 11-47-7 means that she was convicted of possessing a firearm within the meaning of section 241(a)(2)(c) of the INA, and she is therefore deportable.

### **III.**

#### **Conclusion**

Alejo's record of conviction is for a firearm offense governed by the INA. We have no further authority to review the decision of the BIA. We dismiss for lack of jurisdiction.

**Petition dismissed.**