

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEHINDE TYRE WOFFORD,

Defendant-Appellant.

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UNPUBLISHED

April 29, 1997

No. 193347

Recorder's Court

LC No. 95-007138

Before: Sawyer, P.J., and Murphy and Cavanagh, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for carrying a concealed weapon, MCL 750.227, MSA 28.424. Defendant was sentenced to three years' probation, the first year of which to be served in the county jail. We affirm.

Defendant's only issue on appeal was that there was insufficient evidence to support his conviction. Although defendant did not move for a directed verdict or a new trial, this Court can review his claim that his conviction was based on insufficient evidence. *People v Patterson*, 428 Mich 502; 410 NW2d 733 (1987). "To review a claim of insufficiency of the evidence, this Court must consider the evidence in a light favorable to the prosecution and determine whether a rational trier of fact could have concluded that the essential elements of the crime were proved beyond a reasonable doubt." *People v Jacques*, 215 Mich App 699, 702-703; 547 NW2d 349 (1996).

The elements for carrying a concealed weapon in an automobile are: (1) the presence of a weapon in a vehicle operated or occupied by the defendant; (2) that the defendant knew or was aware of its presence, and (3) that he was carrying it. *People v Courier*, 122 Mich App 88, 90; 332 NW2d 421 (1982). Factors to be considered when evaluating the sufficiency of the evidence for carrying a concealed weapon in an automobile include, "the proximity of the weapon to the person of the defendant and the defendant's ownership or operation of the vehicle." *Id.*

At trial, the prosecution produced the two police officers who made the traffic stop on defendant. Both officers testified that defendant was driving the automobile. They both testified that the gun was thrown from the driver's side of the automobile. Defendant's own witness testified that the gun

came from inside the vehicle. Officer Fisette stated that he saw defendant extend his arm out of the window and throw the gun.

The first element, the presence of a weapon in a vehicle operated by defendant, was clearly established by both officers and defendant's own witness. The second element, that defendant knew or was aware of the weapon's presence, is established by the fact that the gun was thrown from the driver's side of the vehicle. It was in close proximity to the person of the defendant and defendant was operating the vehicle. The last element, that defendant carried the weapon, is supported by Officer Fisette's testimony. He saw defendant holding the gun. When viewing this evidence in a light favorable to the prosecution a rational trier of fact could have found that all of the essential elements had been proven beyond a reasonable doubt. We hold, therefore, that there was sufficient evidence to support defendant's conviction.

Affirmed.

/s/ David H. Sawyer  
/s/ William B. Murphy  
/s/ Mark J. Cavanagh