

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN ANTHONY WALLACE

Defendant-Appellant.

UNPUBLISHED

February 12, 1999

No. 202699

Eaton Circuit Court

LC No. 96-000125 FH

---

Before: Fitzgerald, P.J., and Holbrook, Jr., and O'Connell, JJ.

MEMORANDUM.

Defendant was convicted by jury for carrying a concealed weapon in a vehicle, MCL 750.227; MSA 28.424, and sentenced as an habitual offender, second offense, MCL 769.10; MSA 28.1082, to a prison term of five to ninety months. We affirm.

Defendant's sole issue on appeal is that there was insufficient evidence to support his conviction. We disagree. "In reviewing the sufficiency of the evidence, this Court must view the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements were proved beyond a reasonable doubt." *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998). "To support a conviction for carrying a [concealed] weapon in an auto, the prosecution must show: (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). Defendant's challenge is limited to the "carrying" element of the offense.

After reviewing the record in its entirety, we are persuaded that there was sufficient evidence adduced at trial to establish that defendant had constructive possession of the unregistered semi-automatic handgun at issue, and therefore was carrying the weapon at the time of his arrest. See *People v Adams*, 173 Mich App 60, 63; 433 NW2d 333 (1988); *Courier*, *supra* at 91. The gun was found on the floor directly underneath defendant's seat in the front compartment of the car. In this location, the gun was readily accessible to defendant. Twice defendant was observed reaching toward

the floorboard in a manner that suggested to one of the arresting officers that defendant was handling an object or was placing an object down on the floor. This same officer also testified that defendant had admitted to having tried to hide the gun, although the officer also testified that defendant had denied knowing about the gun until just before the car was pulled over.<sup>1</sup> Viewed in a light most favorable to the prosecution, this circumstantial evidence tends to establish the “carrying” element of the offense.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Donald E. Holbrook, Jr.

/s/ Peter D. O’Connell

<sup>1</sup> Defendant denied at trial that he ever told this officer that he had handled the gun. However, the applicable standard of review requires that this Court “resolve all conflicts in favor of the prosecution.” *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).