

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOE JACKSON,

Defendant-Appellant.

UNPUBLISHED

March 3, 2000

No. 211340

Wayne Circuit Court

LC No. 97-004923

Before: Bandstra, C.J., and Holbrook, Jr. and Fitzgerald, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for carrying a concealed weapon, MCL 750.227; MSA 28.424. He was sentenced to one to five years' imprisonment. We affirm.

Defendant's first issue is that his motion to suppress the gun should have been granted because the police officers did not have probable cause to arrest him. We disagree. A trial court's ruling on a motion to suppress is reviewed for clear error. *People v Truong (After Remand)*, 218 Mich App 325, 334; 553 NW2d 692 (1996). A decision is clearly erroneous if we are left with a definite and firm conviction that a mistake has been made. *People v Chambers*, 195 Mich App 118, 121; 489 NW2d 168 (1992).

In reviewing a claim that a police officer lacked probable cause for an arrest, this Court considers whether facts and circumstances within an officer's knowledge were sufficient to warrant a reasonable person in believing that an offense has been committed and that the defendant committed it. *People v Champion*, 452 Mich 92, 115; 549 NW2d 849 (1996); *People v Potter*, 115 Mich App 125, 134-135; 320 NW2d 313 (1982). The police officers had probable cause to arrest defendant. Codefendant Montgomery signaled to defendant when Officer Harris requested two rocks of cocaine. Defendant rode his bicycle over and told Montgomery to "serve him up," after which Montgomery gave Harris two ziplock bags of crack cocaine in exchange for \$20 in secret service funds. These facts would warrant a reasonable person in believing that a crime was being committed and that defendant committed it. Therefore, the trial court's conclusion that the police officers had probable cause to arrest defendant was not clearly erroneous, and the gun was admissible because it was discovered during a lawful arrest.¹

Defendant next contends that his waiver of a jury trial was invalid because it was not made voluntarily and knowingly. We disagree. We review a trial court's determination that the defendant validly waived his right to a jury trial for clear error. *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997).

MCR 6.402(B) provides the requisites for a valid waiver:

Before accepting a waiver, the court must advise the defendant in open court of the constitutional right to trial by jury. The court must also ascertain, by addressing the defendant personally, that the defendant understands the right and that the defendant voluntarily chooses to give up that right and to be tried by the court. A verbatim record must be made of the waiver proceeding.

We find, on review of the record of defendant's waiver hearing, that the trial court did not err in finding defendant's waiver to be voluntarily and knowingly made. This Court has found similar questioning by a trial court to be satisfactory. See *People v Shields*, 200 Mich App 554, 560-561; 504 NW2d 711 (1993).

We affirm.

/s/ Richard A. Bandstra
/s/ Donald E. Holbrook, Jr.
/s/ E. Thomas Fitzgerald

¹ We also note that after Harris informed defendant that he was a policeman, defendant dropped the gun and fled. See *California v Hodari D*, 499 US 621, 629; 111 S Ct 1547; 113 L Ed 2d 690 (1991). However, because neither party has addressed the effect of defendant's actions, we will not address this issue.