

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARTINEZ T. SNEAD,

Defendant-Appellant.

UNPUBLISHED

May 2, 2000

No. 203713

Recorder's Court

LC No. 96-008508

Before: Wilder, P.J., and Sawyer and Markey, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of carrying a concealed weapon (CCW), MCL 750.227; MSA 28.424, entered after a bench trial. We affirm.

At trial, a police officer testified that as he pursued defendant through a vacant lot, he lost sight of defendant's hands momentarily. When he regained sight of defendant's hands, defendant was holding what appeared to be a handgun in his right hand. Defendant discarded the object as he ran. The officer apprehended defendant, and directed his partner to the area in which defendant had discarded the object. The partner discovered a gun in the area. Testifying on his own behalf, defendant admitting fleeing from the police, but denied possessing or discarding a handgun.

The trial court found defendant guilty of CCW. The court concluded that defendant's testimony was not credible.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999).

The elements of CCW are: (1) knowingly carrying a handgun; (2) concealed on or about one's person. Complete invisibility of the handgun is not required. A handgun is considered concealed if it cannot easily be seen by persons who come into ordinary contact with the accused. CJI2d 11.1.

Defendant argues that the evidence was insufficient to support his conviction. We disagree and affirm. The trial court, as trier of fact, was entitled to weigh the testimony and conclude that defendant's assertion that he never possessed or discarded a handgun was not worthy of belief. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). The evidence showed that before the pursuit began, the police did not see an object in defendant's hands. As the officer pursued defendant through the lot, he lost sight of defendant's hands for a moment. When he regained sight of defendant's hands, he observed an object which he believed to be a handgun in defendant's right hand. After defendant was apprehended, a second officer went to the area where defendant had been observed dropping the object, and retrieved a handgun. This evidence supports an inference that defendant possessed and concealed a handgun. Cf. *People v Kincade*, 61 Mich App 498; 233 NW2d 54 (1975). Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ Kurtis T. Wilder
/s/ David H. Sawyer
/s/ Jane E. Markey