

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEONTREY D. POPE,

Defendant-Appellant.

UNPUBLISHED

June 16, 2000

No. 213643

Wayne Circuit Court

Criminal Division

LC No. 97-010510

Before: Hoekstra, P.J., and Holbrook, Jr., and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right from his bench trial conviction of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3). We affirm.

Defendant's conviction was primarily supported by the testimony of a Detroit police officer, who testified that he observed defendant participating in a breaking and entering by removing items from a house through a back window. The items were placed in a car, and the suspects left in another car before they could be apprehended. The officer testified that he identified defendant at the precinct station, and that a VIN check of the car left at the scene traced the car to defendant. Defendant was convicted as charged.

An inspector's report that was not introduced at trial revealed that the VIN of the car at the scene was not traced to defendant, but to another individual. Defendant moved for a new trial, asserting that the introduction of false evidence deprived him of his due process rights. The trial court denied the motion, finding that the VIN issue was a minor matter, and that the direct identification evidence was sufficient to support the conviction.

Defendant argues that the trial court abused its discretion in denying his motion for a new trial. We disagree. The decision whether to grant a new trial is committed to the discretion of the trial court. *People v Canter*, 197 Mich App 550, 560; 496 NW2d 336 (1992). "To warrant reversal on appeal, a clear abuse of discretion must be shown. In reviewing the trial court's decision, due regard must be given to the trial court's superior opportunity to appraise the credibility of . . . trial witnesses." *Id.*

(citations omitted). This Court will not attempt to resolve credibility issues anew. *People v Daoust*, 228 Mich App 1, 17; 577 NW2d 179 (1998).

Failure to correct false testimony requires reversal if the false testimony could, in any reasonable likelihood, have affected the judgment of the trier of fact. *People v Wiese*, 425 Mich 448, 456; 389 NW2d 866 (1986). At the hearing on defendant's motion for a new trial, the trial court found that the VIN issue was not significant, and was only a minor factor in the officer's testimony. The court then observed that good identification was made, which was sufficient to convict defendant, and the court denied the motion for new trial. We agree with this analysis. Further, there is no showing that the decision of the trial court was offensive to the maintenance of justice. We conclude, therefore, that any error involving testimony about the VIN was harmless. *People v Mateo*, 453 Mich 203; 551 NW2d 891 (1996).

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra