STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FATON R. FORDHAM,
a/k/a VUITTON ARRINGTON,

Defendant-Appellant.

UNPUBLISHED
October 20, 2000

No. 215836
Wayne Circuit Court
LC No. 98-000616

Before: Neff, P.J., and Talbot and J. B. Sullivan,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for carjacking, MCL 750.529a; MSA 28.797(a). Defendant was sentenced to five years' probation. We affirm.

Defendant first contends that the trial court erred in finding that he was the carjacker. "Findings of fact in a bench trial will not be disturbed on appeal unless clearly erroneous." *People v United States Currency*, 148 Mich App 326, 332; 383 NW2d 633 (1986). A finding is clearly erroneous where, although there is evidence to support it, this Court is firmly convinced that a mistake has been made. *Id.* at 329; *People v Goss*, 89 Mich App 598, 601; 280 NW2d 608 (1979).

The complainant, Richard Blanding, testified at trial that defendant was the man who stole his car. Blanding identified defendant in both a pretrial lineup and in court. Additionally, Detroit Police Officer Craig Stewart testified that he found defendant near the stolen car within an hour of the carjacking.

Defendant attacks Blanding's credibility on the basis that he observed the carjacker only a matter of moments, in poor lighting; however, in reviewing a trial court's findings in a bench trial, this Court generally will not weigh the credibility of a witness or substitute its assessment of the testimony for that of the trial court. MCR 2.613(C); *People v Vaughn*, 186 Mich App 376,

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

380; 465 NW2d 365 (1990). Thus, given the trial court's conclusion that Blanding was not confused when he identified defendant as the carjacker, the court's finding that defendant "was one of the carjackers" was not clearly erroneous.

Defendant next argues that the lineup in which Blanding identified him was unduly suggestive, requiring suppression of the evidence. Because defendant did not object to the admission of the in-court identification and, in fact, introduced the evidence of the lineup during cross-examination, this issue is waived. *People v Furman*, 158 Mich App 302, 329-30; 404 NW2d 246 (1987); *City of Troy v McMaster*, 154 Mich App 564, 570-571; 398 NW2d 469 (1986). Even if this issue were preserved, we find no evidence that the identification in this case was so impermissibly suggestive to have led to a substantial likelihood of misidentification. *People v Colon*, 233 Mich App 295, 304; 591 NW2d 692 (1998).

Defendant also, in essence, contends that the identification evidence was insufficient to support his conviction for carjacking, again attacking Blanding's credibility. In determining whether the prosecution has presented sufficient evidence, this Court must view all the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995). Where, as here, the credibility of a witness is at issue on appeal, this Court must defer to evaluation of the factfinder. MCR 2.613(C); *Vaughn*, *supra* at 380; *People v Scotts*, 80 Mich App 1, 9; 263 NW2d 272 (1978).

In this case, the trial court resolved the matter of Blanding's credibility on the record, finding that any uncertainty he may have had regarding the lineup was unrelated to his identification of defendant. As we noted above, both Blanding and Officer Stewart identified defendant and linked him to the carjacking. Accordingly, viewing the evidence in a light most favorable to the prosecution, we hold that a rational trier of fact could have concluded that defendant committed the carjacking.

Affirmed.

/s/ Janet T. Neff
/s/ Michael J. Talbot
/s/ Joseph B. Sullivan