

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EUGENE WALTER GARCHOW,

Defendant-Appellant.

UNPUBLISHED
October 27, 2000

No. 223641
Saginaw Circuit Court
LC No. 94-009611-FH

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

MEMORANDUM.

Defendant entered a conditional guilty plea to carrying a concealed weapon, MCL 750.227(2); MSA 28.424(2). He appeals as of right and we affirm.

During the execution of a valid search warrant at a business establishment in Saginaw, police officers seized a handgun from defendant's person. Defendant was an employee of the business, but was not the subject of the search warrant. He was charged with carrying a concealed weapon in violation of MCL 750.227(2); MSA 28.424(2), which prohibits a person from carrying a pistol concealed on or about his person, except in his dwelling house, place of business, or on other land possessed by the person. The prosecution moved in limine in the trial court to exclude defendant's presentation of evidence at trial that he was exempt from prosecution on the basis that he was employed as a security guard at the place of business. Defendant moved to dismiss the charge. After the trial court granted the prosecution's motion in limine, and denied defendant's motion to dismiss, defendant tendered a conditional guilty plea to the charge. He now appeals as of right.

The purpose of the prohibition against carrying a concealed weapon is to proscribe the carrying of a weapon in a place where it might be used to take lives. The exceptions to the proscription serve to allow persons to defend those areas in which they have a possessory interest. *People v Bailey*, 10 Mich App 636, 639; 160 NW2d 380 (1968); *People v Marrow*, 210 Mich App 455; 534 NW2d 153 (1995), aff'd 453 Mich 903 (1996). This Court has previously held that the "place of business" exemption does not apply to employees who have no possessory interest in the business property. *People v Clark*, 21 Mich App 712, 715-716; 176 NW2d 427 (1970). Accordingly, because

defendant was an employee with no possessory interest in the place of business, he falls outside the statutory exemption.¹

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage

¹ As to application of the CCW statute to private security guards, see MCL 338.1069; MSA 18.185(19), and *People v Biller*, 239 Mich App 590; 609 NW2d 199 (2000).