

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRUCE DAVID BAKER,

Defendant-Appellant.

UNPUBLISHED

February 2, 2001

No. 221557

Kent Circuit Court

LC No. 99-001873-FH

Before: Collins, P.J., and Doctoroff and White, JJ.

MEMORANDUM.

Defendant was convicted by a jury of carrying a concealed weapon in an automobile, MCL 750.227(2); MSA 28.424(2). He appeals as of right, and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that insufficient evidence was presented to support his conviction, raising for the first time the specific argument that his conduct fell within the “dwelling house” exception of MCL 750.227(2); MSA 28.424(2), because at the time of his arrest he was homeless and between residences. Having reviewed the record, we find this argument to be legally untenable and based on a misstatement of the factual record.

Michigan law requires that “the burden of establishing any exception, excuse, proviso or exemption” under a state law relative to the use, licensing, and possession of pistols or firearms “shall be upon the defendant but this does not shift the burden of proof for the violation.” MCL 776.20; MSA 28.1274(1); *People v Henderson*, 391 Mich 612, 615; 218 NW2d 2 (1974). Here, defendant’s own testimony demonstrated that he did not have a valid license to carry the weapons and that his truck was not his “dwelling house.” Accordingly, defendant did not meet his burden of proving that his conduct fell within a statutory exception.

Affirmed.

/s/ Jeffrey G. Collins

/s/ Martin M. Doctoroff

/s/ Helene N. White