

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERRICK J. MITCHELL,

Defendant-Appellant.

UNPUBLISHED

October 2, 2001

No. 228042

Wayne Circuit Court

LC No. 99-009742

Before: Cavanagh, P.J. and Markey and Cooper, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for carrying a concealed weapon, MCL 750.227. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Two Detroit Police officers testified that they approached a truck driven by defendant because it was blocking traffic. Upon reaching the cab, they saw defendant take a handgun from his lap and attempt to conceal it behind the passenger's headrest. Defendant testified that he did not have a gun, and the police must have planted the gun in the truck. The trial court found that the officers were credible and that they did not have a motive to manufacture a crime.

Defendant argues that the trial court clearly erred in its findings and determined that the officers were credible only because they were police officers. A trial court's findings of fact will not be disturbed on appeal unless they are clearly erroneous. MCR 2.613(C). In determining whether a finding is clearly erroneous, this Court will defer to the trial's court's superior ability to view the evidence and the demeanor of the witnesses. *People v Johnson*, 202 Mich App 281, 288; 508 NW2d 509 (1993). A finding of fact is clearly erroneous if, after review of the entire record, the Court is left with a definite and firm conviction that a mistake has been made. *People v Everard*, 225 Mich App 455, 458; 571 NW2d 536 (1997).

There is no showing that the court found the prosecution witnesses to be credible solely because they were police officers. The court observed that there was no motive for the officers to

manufacture a crime. Furthermore, defendant failed to present any evidence that would show any particular animosity toward defendant on the part of the officers.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Jessica R. Cooper