

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RUDY DAVIS,

Defendant-Appellant.

UNPUBLISHED
November 6, 2001

No. 227345
Wayne Circuit Court
LC No. 99-009139

Before: Bandstra, C.J., and Doctoroff and White, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v). Defendant was sentenced to twelve months' imprisonment and twenty-four months' probation. We affirm.

Defendant first contends that the trial court's factual findings were clearly erroneous. We disagree.

A trial court's factual findings are sufficient for appellate review so long as it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Armstrong*, 175 Mich App 181, 183-185; 437 NW2d 343 (1989). In this case, the trial court disclosed the factual basis of its findings and adequately articulated how it resolved the credibility issues and conflicting evidence. The trial court acknowledged the conflict in testimony between the arresting officers and defendant and found defendant's credibility questionable based specifically on the manner of his testimony, and his denial that he wrote a letter to a judge bearing his signature and case number, although he admitted sending several similar letters to the same judge in the same time frame. Addressing the specific charge of possession of cocaine, the court noted the testimony of the two officers that they found the cocaine on defendant's person. The trial court's findings of fact are sufficient for appellate review in accordance with MCR 6.403, as it is evident from the record that the trial court was aware of the issues in the case and correctly applied the law. *Armstrong, supra* at 185

Further, the court's finding of guilt was adequately supported by the testimony. We review the court's findings for clear error. MCR 2.613(C); MCR 6.001(D). A finding of fact is clearly erroneous if, after review of the entire record, we are left with a definite and firm conviction that a mistake has been made. *People v Swirles (After Remand)*, 218 Mich App 133, 136; 553 NW2d 357 (1996).

We are not left with a definite and firm conviction that the trial judge erred in finding that defendant possessed cocaine where the only evidence presented at trial was testimony of the arresting officers and defendant, and that testimony was in direct conflict, making the trial court's determination dependent on the credibility of the witnesses. Giving due regard to the trial court's special opportunity to judge the credibility of the witnesses appearing before it, the trial court's finding that defendant's credibility was questionable is supported by several facts that could have negatively influenced the trial court's assessment of defendant's credibility. For instance, defendant denied writing a particular letter to the judge that contained potentially inculpatory statements (expressing remorse), even though the letter bore his signature and inmate number and defendant had written numerous letters to the judge in the same time frame. We are not left with a definite and firm conviction that a mistake was made. *Swirles, supra*, 218 Mich App 136.

Defendant next claims that the trial court erred in finding that the search of his person was a valid search incident to lawful arrest. We disagree. This Court reviews a trial court's factual findings at a suppression hearing for clear error. *People v Beuschlein*, 245 Mich App 744, 748; 630 NW2d 921 (2001). A finding is clearly erroneous where the reviewing court is firmly convinced that a mistake has been made. *People v Brzezinski*, 243 Mich App 431, 433; 622 NW2d 528 (2000).

The officers testified that, after stopping defendant's vehicle for speeding in a residential area, they arrested defendant when he failed to produce his driver's license on the officers' request of his license, registration and proof of insurance. After the arrest, consistent with department policy, the officers searched defendant's person and automobile incident to that arrest. During the search of his person, the officer discovered crack cocaine in a plastic bag in defendant's waistband. In contrast, defendant testified that he was not speeding, and that his driver's license was in his hand ready to show the police, but they never asked him for it. Instead, they pulled him out of the car, immediately handcuffed him, placed him in the patrol car and questioned him about certain persons on the street. Defendant testified that he gave the officer his driver's license, although he admitted that he did not produce his registration or proof of insurance. In addition, defendant offered, and the court admitted into evidence, a property receipt from the Wayne County Detention Facility listing defendant's possessions upon arrival at the detention facility after his arrest, although it is unclear whether his license was included in his property. The trial court determined that defendant was speeding and that the search was conducted incident to defendant's arrest for the protection and safety of the officers.

Defendant's argument on appeal is premised on the assumption that although the stop may have been lawful, the arrest for driving without a license was unlawful because defendant had his license. However, while defendant testified that he had his license, the officers testified to the contrary. The credibility of the witnesses was for the trial court to resolve, and the court did not find that defendant in fact had his license. Thus, defendant has not shown that the cocaine was not found during a valid search incident to defendant's arrest for operating a vehicle without a license. Where there was conflicting testimony, the trial court was not obliged to

accept defendant's version of the events. Thus, we find no error in the denial of defendant's motion to suppress.

Affirmed.

/s/ Richard A. Bandstra

/s/ Martin M. Doctoroff

/s/ Helene N. White