

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WALI FRANKS,

Defendant-Appellant.

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UNPUBLISHED

December 28, 2001

No. 226305

Wayne Circuit Court

LC No. 98-000638

Before: Meter, P.J., and Jansen and R. D. Gotham\*, JJ.

MEMORANDUM.

Defendant appeals as of right from convictions of second-degree murder, MCL 750.317, and possession of a firearm during the commission of a felony, MCL 750.227b, following a bench trial. He was sentenced to twenty-five to fifty years for the murder conviction, to be served consecutively to the mandatory two-year term for felony-firearm. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In reviewing a nonjury criminal case, this Court “is required to review the entire record to determine whether the trial judge clearly erred.” *People v Rush*, 48 Mich App 478, 482; 210 NW2d 467 (1973). This Court must review the record to determine whether there was sufficient evidence to warrant a verdict of guilty beyond a reasonable doubt. *People v Garcia*, 398 Mich 250, 263; 247 NW2d 547 (1976). The trial court’s factual findings are reviewed for clear error. A finding of fact is considered “clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made.” *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

Defendant does not challenge the sufficiency of the evidence as it relates to the elements of the crimes charged. He contends only that the trial court erred in finding that he was the person who committed the crimes because the prosecution witness who identified him as the gunman was incredible. We note that witness credibility is a matter of weight, not sufficiency, of the evidence. *People v Scotts*, 80 Mich App 1, 9; 263 NW2d 272 (1977). That aside, the fact that the trial court chose to believe Watts’ testimony despite defense counsel’s attempts to impeach him does not constitute clear error. *People v Snell*, 118 Mich App 750, 756; 325 NW2d 563 (1982). Because there was evidence to support the trial court’s finding that Watts was credible, we defer to the trial court’s resolution of the issue of identity. *People v Cartwright*, 454

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

Mich 550, 555; 563 NW2d 208 (1997); *People v Martin*, 199 Mich App 124, 125; 501 NW2d 198 (1993).

Affirmed.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Roy D. Gotham