

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEMETRIUS POPE,

Defendant-Appellant.

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UNPUBLISHED

September 24, 2002

No. 234043

Wayne Circuit Court

LC No. 00-009968-01

Before: Whitbeck, C.J., and Sawyer and Kelly, JJ.

MEMORANDUM.

Defendant was charged with armed robbery, MCL 750.529, extortion, MCL 750.213, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b. Following a bench trial, he was convicted of the lesser charge of unarmed robbery, MCL 750.530, and acquitted of all other charges. He was later sentenced to five to fifteen years in prison. He appeals as of right and we affirm.

Defendant does not dispute that the evidence presented, if believed, was sufficient to prove the elements of the crime. He contends only that the victim's testimony was contradictory and incredible and thus insufficient to prove his guilt beyond a reasonable doubt.

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). "As a general rule, the trial judge, as trier of fact, has the duty to weigh the testimony and assess the credibility of the witnesses." *People v Snell*, 118 Mich App 750, 755; 325 NW2d 563 (1982). The factfinder, be it the judge or the jury, "may choose to believe or disbelieve any witness or any evidence presented in reaching a verdict." *People v Cummings*, 139 Mich App 286, 293-294; 362 NW2d 252 (1984).

Because the trial court is in the best position to judge credibility, this Court will not substitute its judgment for that of the trial court but will defer to the trial court's resolution of

factual issues that involve the credibility of witnesses. *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997); *People v Martin*, 199 Mich App 124, 125; 501 NW2d 198 (1993).

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ Kirsten Frank Kelly