

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWAYNE TOURE NELSON,

Defendant-Appellant.

UNPUBLISHED

June 8, 2004

No. 246156

Wayne Circuit Court

LC No. 02-006397

Before: Markey, P.J., and Wilder and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial convictions for assault with intent to commit great bodily harm, MCL 750.84, assault with a dangerous weapon, MCL 750.82, felon in possession of a firearm, MCL 750.224f, and felony-firearm, MCL 750.227b. We affirm.

On appeal, defendant asserts that the trial court failed to articulate specific findings of fact and conclusions of law, as required by MCR 2.517(A) and MCR 6.403. In actions tried without a jury, a trial court must find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment. MCR 2.517(A); MCR 6.403. Findings are sufficient if they establish that the court was aware of the relevant issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995).

The trial court necessarily rejected the alibi testimony offered by defendant in finding him guilty. The court found that defendant shot at the vehicle in which complainants were sitting, and defendant has not shown sufficient inconsistencies in the testimony such that the court's conclusions are placed into question.

Defendant also argues that his right to a fair trial was violated when the court refused to adjourn the trial to allow him to present a final witness. MCR 2.503(C) provides that a motion to adjourn because of the unavailability of a witness must be made as soon as possible after ascertaining the facts. The motion may be granted only if the court finds that the evidence is material and that diligent efforts have been made to produce the witness. MCR 2.503(C)(2). A trial court's decision whether to grant a continuance is reviewed for abuse of discretion. *People v Jackson*, 467 Mich 272, 276; 660 NW2d 665 (2002).

The trial court did not abuse its discretion in denying an adjournment where defendant failed to establish that the testimony would be material and that diligent efforts were made to produce the witness.

Affirmed.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter