

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE MONROE WRIGHT,

Defendant-Appellant.

UNPUBLISHED

August 17, 2004

No. 246932

Wayne Circuit Court

LC No. 02-003978-01

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of carrying a concealed weapon in a vehicle, MCL 750.227, felon in possession of a firearm, MCL 750.224f(2), and possession of a firearm during the commission of a felony, MCL 750.227b, entered after a bench trial.¹ We affirm.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of carrying a concealed weapon in a vehicle are: (1) the pistol was in a vehicle operated or occupied by the defendant; (2) the defendant knew that the pistol was in the vehicle; and (3) the defendant took part in carrying or keeping the pistol in the vehicle. CJI2d 11.1. The element of “carrying” is distinct from knowledge of the weapon’s presence in the vehicle, and does not automatically follow from proof of knowledge. *People v Courier*, 122 Mich App 88, 90; 332 NW2d 421 (1982).

¹ Defendant was also convicted of operating a vehicle under the influence of intoxicating liquor, MCL 257.625, but does not challenge that conviction on appeal.

A person convicted of a felony may not possess a firearm in Michigan if he was convicted of a specified felony,² and if less than five years have passed since he paid all fines, served all terms of imprisonment, and successfully completed all terms of probation or parole imposed for the violation. MCL 750.224f(2).

The elements of felony-firearm are: (1) the possession of a firearm; (2) during the commission of, or the attempt to commit, a felony. MCL 750.227b. A person has “possession” of a firearm if the firearm is accessible and available during the commission of or the attempt to commit a felony. *People v Williams (After Remand)*, 198 Mich App 537, 541; 499 NW2d 404 (1993).

Defendant argues that the evidence was insufficient to support his convictions of the firearms offenses. We disagree and affirm. A handgun was discovered under the driver’s seat of the vehicle defendant was operating. Defendant’s wife testified that she purchased the handgun without defendant’s knowledge and placed it in her briefcase, which was in the vehicle. A magazine fitting the handgun was found in the pocket of defendant’s jacket. The evidence that the handgun was found under the driver’s seat of a vehicle of which defendant was the sole occupant and that he was carrying a magazine for the handgun supported an inference that he removed the handgun from the briefcase and was knowingly carrying it in the vehicle. *Vaughn, supra*; *Courier, supra*. The direct and circumstantial evidence, viewed in a light most favorable to the prosecution, supported defendant’s convictions. *Petrella, supra*.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper
/s/ Kirsten Frank Kelly

² A “specified felony” is defined in MCL 750.224f(6). Defendant’s prior conviction of possession with intent to deliver less than twenty-five grams of cocaine qualified as a specified felony. MCL 750.224f(6)(ii).