

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY ANTHONY HEARN,

Defendant-Appellant.

UNPUBLISHED

September 14, 2004

No. 247140

Wayne Circuit Court

LC No. 02-001183

Before: Donofrio, P.J., and White and Talbot, 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, and possession of a firearm during the commission of a felony, MCL 750.227b, entered after a jury trial. We affirm.

In reviewing the sufficiency of the evidence, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from direct or circumstantial evidence. *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 weapon was in a vehicle operated or occupied by the defendant; (2) the defendant knew that the weapon was in the vehicle; and (3) the defendant took part in carrying or keeping the weapon 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).

A person convicted of a specified felony¹ may not possess a firearm until five years have passed since he paid all fines, served all terms of imprisonment, and successfully completed all

¹ A "specified felony" is defined in MCL 750.224f(6). Defendant's prior conviction of
(continued...)

terms of probation or parole imposed for the offense, and until his right to possess a firearm has been restored. 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.

Defendant argues that insufficient evidence was produced to support his convictions. We disagree and affirm. The police stopped the vehicle defendant was driving for a traffic offense. An officer observed defendant place a handgun in the console of the vehicle. A second officer observed his partner remove the weapon from the console. The jury was entitled to accept this testimony as credible. *Milstead, supra*. This evidence supported a finding that defendant was knowingly carrying the weapon in the vehicle. *Vaughn, supra*; *Courier, supra*. The prosecution was not required to prove that defendant owned either the vehicle or the weapon in order to establish the elements of the charged offenses. The evidence, viewed in a light most favorable to the prosecution, was sufficient to sustain defendant's convictions. *Wolfe, supra*.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot

(...continued)

possession of cocaine qualified as a specified felony. MCL 750.224f(6)(ii).