

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JADE ARDAIS WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

November 16, 2004

No. 248746

Wayne Circuit Court

LC No. 03-000305-01

Before: Cavanagh, P.J., and Kelly and H. Hood*, JJ.

MEMORANDUM.

Defendant appeals as of right his bench convictions of attempted carrying a concealed weapon, MCL 750.92; MCL 750.227, attempted felon in possession of a firearm, MCL 750.92; MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. We affirm.

Defendant argues that his convictions should be reversed because (1) the trial court's findings of fact were clearly erroneous, and (2) the evidence was insufficient to support the convictions, which (3) were against the great weight of the evidence. We disagree. Viewed in a light most favorable to the prosecution, the evidence was sufficient, it did not preponderate heavily against the verdict, and we are not left with a definite and firm conviction that a mistake was made with regard to the findings of fact. See *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999); *People v Gadomski*, 232 Mich App 24, 28; 592 NW2d 75 (1998); *People v Swirles (After Remand)*, 218 Mich App 133, 136; 553 NW2d 357 (1996).

Defendant claims that inconsistencies in the police testimony regarding which bedroom he was apprehended in, the number of people present in the house, and the level of light in the house caused the testimony to be incredible and should have led the trial court to acquit him. Defendant notes that the police testimony also conflicted with his witness' testimony. However, absent exceptional circumstances, credibility issues are for the trier of fact, not this Court. *People v Lemmon*, 456 Mich 625, 642-643; 576 NW2d 129 (1998).

Defendant stipulated that he was ineligible to possess a firearm on the date of his arrest, MCL 750.224f(2)(a); therefore, the critical factual issues to be determined were whether defendant concealed or attempted to conceal a firearm on or about his person that he possessed

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

or attempted to possess. See MCL 750.227; 750.227b. Two police officers testified that they observed defendant pull a handgun from his waistband and throw it underneath a bed. There was no conflicting testimony with respect to these crucial facts. The inconsistencies in the police testimony regarding miscellaneous background facts does not constitute the type of exceptional circumstances that would justify our second-guessing the trial court's credibility determinations. See *Lemmon, supra*. Accordingly, defendant's challenges to his convictions premised on alleged incredible testimony are rejected. Similarly, that fingerprint evidence was not presented does not change our decision that the convictions were supported by the evidence. See *People v Hardiman*, 466 Mich 417, 422; 646 NW2d 158 (2002).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kirsten Frank Kelly
/s/ Harold Hood