STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ANTHONY SWANTEZ MCINTOSH, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

ANTHONY SHAWNTEZ MCINTOSH,

Respondent-Appellant.

UNPUBLISHED
March 24, 2009

No. 283842
Wayne Circuit Court
Family Division
LC No. 05-439873-DL

Before: Cavanagh, P.J., and Fort Hood and Davis, JJ.

PER CURIAM.

Respondent appeals as of right his conviction of possession of a short-barreled shotgun, MCL 750.224b(1), entered after a bench trial. We affirm.

Petitioner charged respondent (DOB 12-23-90) as a juvenile with possession of a short-barreled shotgun. Officer Pajor testified that he and other officers responded to a call concerning two armed men at a particular location. Pajor testified that he approached an illuminated area, and saw respondent standing by a fence and holding a short-barreled shotgun. Respondent, still holding the shotgun, climbed over the fence and ran down the alley. Another police officer apprehended respondent and returned him to the scene. Pajor stated that respondent was not in possession of the shotgun when the officers returned him to the scene; however, the weapon was recovered very near the spot where respondent climbed the fence.

Respondent testified that on the evening in question he was standing on a porch talking to a girl when he saw the police arrive. Respondent stated that he went inside the house, and that a boy named Terrell,[1] who had been on the porch and who was armed with a double-barreled

[1] A prospective witness named Terrell Jones appeared for trial, but exercised his Fifth Amendment right against self-incrimination and refused to testify.

sawed-off shotgun, came inside as well. Respondent stated that he and Terrell left the house via the back door and that Terrell threw the gun toward a fence.

The trial court accepted as credible the testimony given by the police officers and found respondent guilty of the charged offense. The trial court escalated respondent's placement from community placement to a low security residential facility.

In a trial in a juvenile proceeding, the standard of proof is beyond a reasonable doubt. MCR 3.942(C). 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 evidence in the record but may not make inferences completely unsupported by any direct or circumstantial evidence. *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).

Respondent argues that petitioner produced insufficient evidence to support his conviction of possession of a short-barreled shotgun. We disagree.

Pajor unequivocally identified respondent as the person he saw holding the shotgun. Pajor stated that respondent kept possession of the shotgun as respondent climbed over the fence. The shotgun was found within five to ten feet of the spot where respondent climbed the fence. Respondent notes correctly that the identification of the person observed by Pajor holding the weapon was the central issue at trial. Pajor, petitioner's other witnesses, and respondent gave dramatically different versions of the events that occurred on the night in question. The credibility of the witnesses was for the finder of fact, in this case the trial court, to decide. See *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999). The trial court was entitled to accept as credible Pajor's testimony that respondent was the person Pajor saw standing by the fence and holding the shotgun. *Id*. Moreover, from the testimony that the gun was found on the ground five to ten feet from the spot where respondent climbed the fence, and the testimony that respondent was not in possession of the gun when he was apprehended, the trial court was entitled to infer that respondent dropped the weapon at that spot. *Vaughn, supra* at 379-380. Respondent's version of the events was different from that given by petitioner's witnesses; however, petitioner was not required to negate every theory of innocence, but was required to simply prove its own case beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

We conclude that, viewing the evidence in a light most favorable to petitioner, the evidence established respondent's guilt beyond a reasonable doubt.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood
/s/ Alton T. Davis