

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRANCE BUCHANAN,

Defendant-Appellant.

UNPUBLISHED

March 9, 2010

No. 289145

Wayne Circuit Court

LC No. 08-002222-FH

Before: Servitto, P.J., and Bandstra and Fort Hood, JJ.

PER CURIAM.

Defendant was convicted by a jury of felon in possession of a firearm, MCL 750.224f, carrying a concealed weapon (CCW), MCL 750.227(2), and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to concurrent prison terms of 23 months to five years for the felon in possession and CCW convictions, and a consecutive two-year term of imprisonment for the felony-firearm conviction. He appeals as of right. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the evidence did not support his convictions because there was insufficient evidence that he had possession of the car in which a gun was discovered, or that he had knowledge of the gun. We disagree.

In reviewing the sufficiency of the evidence in a criminal case, this Court must review the record de novo and, viewing both direct and circumstantial evidence in a light most favorable to the prosecution, determine whether a rational trier of fact could find that the essential elements of the charged crimes were proven beyond a reasonable doubt. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997); *People v Hammons*, 210 Mich App 554, 556; 534 NW2d 183 (1995). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000); *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

A positive identification of a defendant by a witness is sufficient to support a conviction despite the alleged unreliability of such testimony. *People v Davis*, 241 Mich App 697, 700, 705-706; 617 NW2d 381 (2000). The credibility of identification testimony is a question of fact for the trier of fact and will not be resolved anew on appeal. *Id.* at 700. All conflicts in the evidence are to be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Felon in possession of a firearm and felony-firearm both require proof that the defendant possessed a firearm. *People v Peals*, 476 Mich 636, 640; 720 NW2d 196 (2006). Possession of a weapon may be actual or constructive, may be proven by circumstantial evidence, and is a factual question for resolution by the jury. *People v Hill*, 433 Mich 464, 469-470; 446 NW2d 140 (1989). “[A] defendant has constructive possession of a firearm if the location of the weapon is known and it is reasonably accessible to the defendant.” *Id.* at 470-471. CCW requires proof that the defendant carried a pistol. MCL 750.227(2); *People v Shelton*, 93 Mich App 782, 785; 286 NW2d 922 (1979). “Carrying” is similar to possession and denotes intentional control or dominion over the weapon. *People v Butler*, 413 Mich 377, 390 n 11; 319 NW2d 540 (1982). The word “carry” encompasses actual, as well as constructive, possession of a weapon. *People v Adams*, 173 Mich App 60, 62-63; 433 NW2d 333 (1988).

Police Officers Kline and West testified that defendant was the sole occupant of the car involved in the pursuit and traffic stop, and that defendant admitted that he was the person who had been driving the car, which was registered to him. West testified that as Kline turned around to follow defendant’s car, he saw defendant lean over and reach into the back seat. A subsequent search of the car revealed a loaded gun in the area of the rear floorboard above which defendant had been seen extending his arm. This evidence, viewed most favorably to the prosecution, was sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that defendant possessed the weapon that was found on the floor of the back seat. Thus, the evidence was sufficient to support defendant’s convictions.

We affirm.

/s/ Deborah A. Servitto
/s/ Richard A. Bandstra
/s/ Karen M. Fort Hood