

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,  
  
Plaintiff-Appellee,

UNPUBLISHED  
March 13, 2012

v

MICKEON GENE WASHINGTON,  
  
Defendant-Appellant.

No. 302072  
Wayne Circuit Court  
LC No. 10-007709-FH

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Before: STEPHENS, P.J., and CAVANAGH and SAAD, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of being a felon in possession of a firearm, MCL 750. 224f, fleeing and eluding, third-degree, MCL 257.602a(3)(a), carrying a concealed weapon, MCL 750.227, and possessing a firearm during the commission of a felony, second offense (felony-firearm), MCL 750.227b. Defendant was sentenced as a fourth habitual offender, MCL 769.12, to a mandatory five-year prison term for the felony-firearm conviction and to five years' probation on each of the other convictions, to be served concurrently. He appeals as of right. We affirm.

In July 2010, two Detroit police officers pulled over a vehicle for speeding. As the officers were issuing several traffic citations to the driver, including a citation for having an expired operator's license, one of the officers heard a clicking noise as defendant was re-entering the vehicle and then noticed a handgun lying on the ground outside the vehicle. At trial, the officer attributed the noise to the gun striking the ground after it fell from defendant's possession.<sup>1</sup> The officer shouted for the driver to exit the vehicle, but the driver drove away at a high speed. The officers retrieved the gun and then gave chase in their patrol car. A short distance away, the driver exited the moving vehicle with the key still in the ignition and ran away. The officers secured the vehicle but lost track of defendant. The officers initially began

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<sup>1</sup> After indicating that he saw the gun on the ground after hearing the clicking noise, the officer testified that he observed the gun fall from the area of defendant's waist. As will be discussed below, to the extent that the officer's testimony was inconsistent, the issue of his credibility was reserved for the trial court's determination.

to drive the vehicle to the impound lot but it stopped running after a mile or two. As they waited for a tow truck to arrive, they conducted an inventory search and discovered an unloaded magazine clip for a handgun in the car.

During the investigation of the driver, the officers conducted a LEIN check and searched the Department of Corrections Offender Tracking Information System. They confirmed defendant's identity as the driver, obtained a picture of defendant off the DOC's website, and learned that defendant was on parole. Six days after the traffic stop, the officers viewed a live lineup in which they picked defendant out as the driver of the vehicle and possessor of the handgun.

On appeal, defendant challenges the sufficiency of the evidence regarding his identification as the driver of the vehicle.

An appellate court reviews a challenge to the sufficiency of the evidence *de novo* and in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Ericksen*, 288 Mich App 192, 195; 793 NW2d 120 (2010). “Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.” *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999) (quoting *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 [1993]). “Even [when] relying on circumstantial evidence, the prosecution need not negate every reasonable theory consistent with the defendant's innocence, but merely introduce evidence sufficient to convince a reasonable [fact-finder] in the face of whatever contradictory evidence the defendant may provide.” *People v Konrad*, 449 Mich 263, 273 n 6; 536 NW2d 517 (1995). This Court will not interfere with the fact-finder's role of determining the weight of evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Passage*, 277 Mich App 175, 177; 743 NW2d 746 (2007). It is for the trier of fact rather than this Court to determine what inferences can be fairly drawn from the evidence and to determine the weight to be accorded to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). Additionally, where a criminal defendant challenges the sufficiency of the evidence in a bench trial, this Court reviews the trial court's factual determinations for clear error. *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006).

We hold that a rational trier of fact could reasonably conclude from the trial testimony that defendant was the driver of the vehicle stopped by the police officers. One of the officers was able to compare the driver's face to the photo on the expired license. That officer stated that the birth date on the driver's license matched the date given by the driver in response to the officer's question. Both officers were able to view the driver at close range for a substantial period of time. Less than a week after the traffic stop, they observed a live lineup and unequivocally identified defendant as the driver.

Defendant claimed that someone stole his vehicle. There was conflicting testimony regarding whether the keys were left in the vehicle and where it was at the time of alleged theft. That the officers did not find any pry marks or other evidence that the vehicle had been tampered with during their investigation suggests that it was not broken into and stolen. Defendant's argument on appeal amounts to nothing more than a disagreement regarding the trial court's

assessment of witness credibility. Defendant's challenges to the credibility of the prosecution witnesses and his endorsement of the credibility of the defense witnesses are beyond this Court's purview where the trial court was in a superior position to determine issues of credibility. This Court must, in considering the proofs in a light most favorable to the prosecution, "avoid weighing the proofs or determining what testimony to believe." *Terry*, 224 Mich at 452.

Viewed in a light most favorable to the prosecution, we hold that a fact finder could reasonably conclude there was sufficient evidence to support defendant's convictions. Specifically, there was sufficient evidence to allow a rational trier of fact to find beyond a reasonable doubt that defendant was the driver of the SUV.

Affirmed.

/s/ Cynthia Diane Stephens  
/s/ Mark J. Cavanagh  
/s/ Henry William Saad