

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
September 18, 2012

v

MICHAEL MATTHEW BEATTY,
Defendant-Appellant.

No. 306308
Jackson Circuit Court
LC No. 10-005519-FH

Before: SERVITTO, P.J., and FITZGERALD and TALBOT, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of prisoner in possession of a weapon, MCL 800.283(4). He was sentenced, as a third habitual offender, MCL 769.11, to a term of two to ten years' imprisonment, to be served consecutive to the sentence he was serving at the time he committed the instant offense. Because there was sufficient evidence to support defendant's conviction, we affirm.

Defendant's conviction arises out of his transfer of a piece of metal fashioned into a weapon to another man while the two were housed as inmates in the same prison. According to the testimony at trial, defendant had the weapon in his possession, concealed in a brown glove, and passed it to another inmate in the prison yard, who then attempted to re-enter the prison building with it. Both defendant and the other inmate were charged with and convicted of being prisoners in possession of a weapon.

Defendant's sole argument on appeal is that there was insufficient evidence to support his conviction. We disagree.

When examining the sufficiency of the evidence, we review the evidence, de novo, in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the elements of the charged offense were proven beyond a reasonable doubt. *People v Ericksen*, 288 Mich App 192, 195-196; 793 NW2d 120 (2010); *People v Kissner*, 292 Mich App 526, 533-534; 808 NW2d 522 (2011). As a result, "a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict." *Kissner*, 292 Mich App at 534.

To convict a defendant of prisoner in possession of a weapon, the prosecution is required to prove that the defendant was a prisoner with the Department of Corrections, the defendant

possessed or had under his control a weapon or an implement, and the weapon or implement could be used to injure someone else or assist in an effort to escape. MCL 800.283(4). Defendant argues that the evidence did not establish that he possessed the shank. However, when the evidence is viewed in a light most favorable to the prosecution, *Ericksen*, 288 Mich App at 196, a rational trier of fact could conclude beyond a reasonable doubt that defendant possessed the shank and passed it to Arens.

At trial, Justin Arens, an inmate of the Michigan Department of Corrections, testified that he was befriended by defendant (also an inmate), and defendant asked Arens to join his group, the Gangster Disciples. When Arens said that he did not want to join, defendant told Arens that was a bad idea. Shortly thereafter, Arens loaned defendant his prison-issued brown Jersey gloves while lifting weights in the weight pit. A couple of days later, on April 24, 2010, Arens was called outside to talk to defendant. Arens testified that when he went outside, defendant spoke to him for a moment, then returned some gloves that Arens had loaned to him. Arens felt something flat and hard inside the gloves and was concerned, but did not say anything and shoved the gloves in his pocket. Arens testified that as he re-entered the building, prison officer Morey asked him to empty his pockets, at which time a piece of metal fashioned into a weapon (a “shank”) was found inside one of the gloves. Arens testified that the shank was not in the gloves when he gave them to defendant in the weight pit and that the shank was not in his pocket when he went to meet defendant in the yard. Arens was charged with being a prisoner in possession of weapon.

Prison Officer Morey testified that on the date of the incident at issue, he observed defendant in the prison yard speaking to another inmate, then observed Arens come outside. Morey testified that Arens looked like he had been woken up, as his appearance was disheveled and he was not dressed for the weather when he came outside. Morey observed defendant pull something brown out of his pocket and hand it to Arens who then placed it in his coat pocket. Arens then came inside the building and Morey immediately searched him, finding the shank inside a brown glove in his coat pocket.

Although defendant claims that Arens is not a credible witness because he is a convicted felon and received a plea agreement for his prisoner in possession of a weapon charge, the issue of credibility is for the jury to decide and we will not revisit credibility issues on appeal. *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). Defendant's conviction is supported by sufficient evidence.

Affirmed.

/s/ Deborah A. Servitto
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot