

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CURTIS PHILLIPS,

Defendant-Appellant.

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UNPUBLISHED

August 30, 1996

No. 185231

LC No. 94-008036

Before: Gribbs, P.J., and Saad and J. P. Adair,\* JJ.

PER CURIAM.

Defendant appeals from his bench trial conviction for carrying a concealed weapon, MCL 750.227; MSA 28.424. Defendant was sentenced to two years probation: we affirm.

Defendant argues that the evidence was insufficient to prove beyond a reasonable doubt that he “concealed” a handgun because the arresting officers could see the butt of a gun protruding from his waistband. We disagree.

To determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt, this Court views the evidence in the light most favorable to the prosecution. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). A conviction for carrying a concealed weapon without a license requires proof that the accused concealed a dangerous weapon. *People v Pickett*, 21 Mich App 246, 248; 175 NW2d 347 (1970). Concealment is a question of fact and exists when the weapon is “not discernible by the ordinary observation of [those] coming in contact with [the accused], casually observing him, as people do in the ordinary and usual associations of life.” *People v Johnnie W Jones*, 12 Mich App 293, 296; 162 NW2d 847 (1968).

While searching the area for gunmen after a reported shooting, the arresting officers observed defendant standing on a nearby porch with the butt of a handgun protruding from his waistband. They were able to identify this object as the butt of a handgun based on their

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

training and experience. The officers were not “casually observing” defendant “in the ordinary and usual associations of life,” and this was not “ordinary observation” because the officers were searching for armed suspects. A casual observer may not have discerned the object in defendant’s waistband. Therefore, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could conclude there was sufficient evidence that defendant concealed a gun in his waistband.

Affirmed.

/s/ Roman S. Gribbs  
/s/ Henry William Saad  
/s/ James P. Adair

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