

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT W. LEE, a/k/a WILLIAM LEE,

Defendant-Appellant.

UNPUBLISHED

April 18, 2000

No. 204715

Recorder's Court

LC No. 96-006570

Before: Griffin, P.J., and Holbrook, Jr., and J.B. Sullivan*, JJ.

MEMORANDUM.

Defendant appeals as of right from his bench trial convictions of felonious assault, MCL 750.82; MSA 28.277, and carrying a concealed weapon, MCL 750.227; MSA 28.424. Defendant was sentenced to serve concurrent prison terms of one to four years for the felonious assault conviction and one to five years for the carrying a concealed weapon conviction. We affirm.

Defendant first argues that insufficient evidence was adduced at trial to support either of his convictions. We disagree. "When ascertaining whether sufficient evidence was presented at trial to support a conviction, this Court must view the evidence 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 proved beyond a reasonable doubt." *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999). In making this determination, this Court defers to the trier-of-fact's superior ability to assess witness credibility. *Id.* at 506.

Rowsey testified that she felt something hard in her back as defendant told her to walk across the street. Defendant told her that if she made any noise, "he would just blow [her] in half." Defendant then dragged Rowsey across the street and forced her into his truck. Rowsey testified that at that point, defendant took a gun from under his coveralls and pointed it at her. Conversely, defendant testified that it was Rowsey who was carrying the gun. Viewing this evidence in the appropriate lights, we conclude that sufficient evidence was presented to support defendant's convictions for carrying a concealed

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

weapon, *People v Combs*, 160 Mich App 666, 673; 408 NW2d 420 (1987), and felonious assault, *Avant, supra* at 505.

We also reject defendant's assertion that the case should be remanded for sentencing. Defendant has failed to establish that the scoring of the challenged offense variables rests on a factual predicate that was wholly unsupported or materially false, we need not address this issue further. *People v Raby*, 456 Mich 487, 497-498; 572 NW2d 644 (1998).

Affirmed.

/s/ Richard Allen Griffin

/s/ Donald E. Holbrook, Jr.

/s/ Joseph B. Sullivan