

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARNELL LEWIS,

Defendant-Appellant.

UNPUBLISHED

December 15, 2000

No. 217342

Wayne Circuit Court

Criminal Division

LC No. 98-008445

Before: Smolenski, P.J., and Holbrook, Jr. and Gage, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to concurrent prison terms of two to ten years for the assault conviction and eight to twenty years for the armed robbery conviction, and a consecutive two-year term for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant contends that the evidence was insufficient to support his convictions. The victim testified at trial that as he left a restaurant, defendant pointed a gun in his face, announced a holdup, threatened to kill and to shoot the victim, took the victim's wallet and cellular telephone, then shot the victim's leg and fled. We conclude that this testimony, viewed in the light most favorable to the prosecution, was sufficient to enable a rational trier of fact to find that the elements of the charged crimes were proven beyond a reasonable doubt.¹ *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985). To the extent that defendant challenges as incredible the inculpatory testimony of the victim and a police officer, we observe that the resolution of credibility disputes falls within the exclusive province of the trier of fact. *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990). We decline to second guess the trial

¹ See *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999) (describing the elements of armed robbery); *People v Bailey*, 451 Mich 657, 668-669; 549 NW2d 325 (noting the elements of assault with intent to commit bodily harm less than murder), amended on other grounds 453 Mich 1204; 551 NW2d 163 (1996); and *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999) (noting the elements of felony-firearm).

court's unequivocal finding, after observing the witnesses' testimony at trial, that the victim was credible while defendant was not.

Affirmed.

/s/ Michael R. Smolenski
/s/ Donald E. Holbrook, Jr.
/s/ Hilda R. Gage