STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED May 22, 2001
v	No. 221300 Wayne Circuit Court
KENNETH BLACK, Defendant-Appellant.	LC No. 98-012504

Before: McDonald, P.J., and Murphy and Meter, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction for possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v).[1] Defendant was sentenced to eighteen months' probation. We affirm.

Defendant first argues that the trial court should have suppressed drug evidence seized from on his person at his residence. We disagree.

This Court reviews de novo a trial court's decision on a motion to suppress. *People v Echavarria*, 233 Mich App 356, 366; 592 NW2d 737 (1999). However, the trial court's underlying findings of fact are reviewed for clear error. *Id.* A finding of fact is clearly erroneous if, after reviewing the entire record, an appellate court is left with a definite and firm conviction that a mistake has been made. *People v Mendez*, 225 Mich App 381, 382; 571 NW2d 528 (1997). Furthermore, this Court shall give regard to the special opportunity of the trial court to judge the credibility of witnesses. MCR 2.613(C).

Testimony presented at the suppression hearing indicated that the police approached defendant's residence, located approximately sixty feet from a school, as part of a routine criminal investigation. The police sought merely to inquire into the whereabouts of a suspected drug dealer and to warn the residents against drug dealing in the neighborhood. They arrived in an unmarked car, with red and blue lights in the window, and were wearing jackets with "Gang

[1] Defendant was originally charged as a fourth habitual offender, MCL 769.12; MSA 28.1084, with possession with intent to deliver less than fifty grams of cocaine. MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv).

Squad Special Crime Section" inscribed on both the front and back and badges on chains around their necks. The police testified that when he opened the door to his residence defendant held in his hand an open pouch containing rocks of cocaine. Without looking up at the officers, defendant asked "how many" the officers wanted. When the officers then identified themselves as police, defendant looked up and quickly shoved the pouch in his back pocket. The officers arrested defendant and seized the pouch.[2]

In general, warrantless searches and seizures are unreasonable unless both probable cause and circumstances that fall within a particular exception to the warrant requirement are present. *People v Borchard-Ruhland*, 460 Mich 278, 293-294; 597 NW2d 1 (1999); *People v Snider*, 239 Mich App 393, 407; 608 NW2d 502 (2000). Probable cause is present where the facts and circumstances known to the police officers at the time of the search would lead a reasonably prudent person to believe that a crime has been or is being committed, and that evidence will be found in a particular place. *People v Williams*, 160 Mich App 656, 660; 408 NW2d 415 (1987). The plain view exception allows for warrantless seizure of objects falling within the plain view of an officer who has a right to be in the position to have that view. *People v Tisi*, 384 Mich 214, 218; 180 NW2d 801 (1970); *People v Jordan*, 187 Mich App 582, 588; 468 NW2d 294 (1991).

Though defendant challenged the officers' account and claimed that the police burst through the door, guns in hand, and recovered the drug-filled pouch from another room, the trial court concluded that the officers' version of events was valid. This court will not disturb credibility determinations made by the trial court, and we accordingly conclude that the court did not clearly err in denying defendant's motion based on application of the plain view exception and its belief that the officers testified truthfully. Additionally, the exigent circumstances exception justified any minimal incursion into the residence necessary to secure defendant and seize the pouch. See *In re Forfeiture of $176,598*, 443 Mich 261, 271; 505 NW2d 201 (1993); *Snider*, *supra* at 408.

Defendant also argues that the prosecution failed to present sufficient evidence at trial to sustain his conviction because a reasonable factfinder could not find that defendant would offer to sell cocaine to police officers who were dressed in clearly marked police jackets, with badges around their necks and guns around their waists. We again disagree.

When reviewing the sufficiency of the evidence, this Court views the evidence in the light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995). Any conflicts in the evidence must be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Questions regarding credibility of witnesses are left to the discretion of the trier of fact, and are not resolved anew by this Court. *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

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[2] Although the police officers subsequently conducted a brief protective sweep of the home, no other drugs were found and the charges were brought based solely on the cocaine in the seized pouch.

The evidence presented at trial by the officers indicated that defendant was looking down at the ground, not at the police, when he opened the door. Furthermore, although defendant denied possession of the drugs and testified that the pouch was seized from a room within the residence, the jury had the opportunity to weigh the relative credibility of each witness at trial, and decided the case accordingly. Viewed in a light most favorable to the prosecution, the evidence was most certainly sufficient to convict defendant of possession of less than twenty-five grams of cocaine.

Affirmed.

/s/ Gary R. McDonald
/s/ William B. Murphy
/s/ Patrick M. Meter