

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFREY THOMPkins,

Defendant-Appellant.

UNPUBLISHED

June 15, 2004

No. 245501

Wayne Circuit Court

LC No. 02-001601

Before: Neff, P.J., and Zahra and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right from a nonjury conviction of carrying a concealed weapon, MCL 750.227, for which he was sentenced to one year's probation. We affirm.

Defendant's sole claim on appeal is that he was denied a fair trial due to judicial bias. Defendant did not raise any objection below and thus the issue has not been preserved for appeal. *People v Paquette*, 214 Mich App 336, 340; 543 NW2d 342 (1995). Therefore, defendant must establish plain error that affected the outcome of the trial. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

Defendant contends that the court improperly interfered with his cross-examination. While the court may question witnesses to clarify their testimony or elicit additional relevant information, it must avoid assuming a prosecutorial role and "exercise caution so that its questions will not be intimidating, argumentative, prejudicial, unfair, or partial." *People v Sterling*, 154 Mich App 223, 228; 397 NW2d 182 (1986). The record shows that the court did not question any witnesses at trial or otherwise attempt to limit defendant's cross-examination of the prosecution's witnesses.

Defendant also contends that "the court interfered unreasonably with efforts by the defense to demonstrate that the failure to preserve the gun for fingerprints was a violation of standard operating procedure." A review of the transcript shows that defense counsel did not ask the officers any such questions. In fact, defendant seems to claim that the judge acted improperly because he failed to ask such questions of the officers himself. Defendant's "failure to cite any authority in support of this novel proposition precludes . . . appellate review." *Sowels v Laborers' Int'l Union of North America*, 112 Mich App 616, 624; 317 NW2d 195 (1981).

The only affirmative act of the court cited by defendant and verified by the record is the trial court's finding that the officers' testimony was credible and defendant's testimony was not. Given that a judge who conducts a nonjury trial "has the duty to weigh the testimony and assess the credibility of the witnesses," *People v Snell*, 118 Mich App 750, 755; 325 NW2d 563 (1982), and "must make specific findings of fact and state conclusions of law," *People v Shields*, 200 Mich App 554, 558; 504 NW2d 711 (1993), the court cannot be said to have acted improperly by fulfilling these responsibilities.

Affirmed.

/s/ Janet T. Neff

/s/ Brian K. Zahra

/s/ Christopher M. Murray