

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARY LAMONT SOLOMON,

Defendant-Appellant.

UNPUBLISHED

June 15, 2004

No. 245611

Wayne Circuit Court

LC No. 02-003646

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

PER CURIAM.

Defendant appeals as of right his convictions of attempted possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), MCL 750.92, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Police officers pursued a suspect in a narcotics transaction into a residence, and observed defendant sitting at a table holding a shotgun. Defendant was placed under arrest, and a search of his person revealed a plastic bag containing a substance that appeared to be crack cocaine. The parties stipulated that the substance in the bag was crack cocaine, and that defendant had a prior conviction that precluded him from possessing a firearm. Defendant maintained at trial that he was neither holding a shotgun nor carrying cocaine on his person when the police arrived.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented 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 proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). A trial court's findings of fact are reviewed for clear error. MCR 2.613(C).

A new trial may be granted on some or all of the issues if a verdict is against the great weight of the evidence. MCR 2.611(A)(1)(e). Determining whether a verdict is against the great weight of the evidence requires a review of the entire body of proofs. The test is whether the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand. *People v Gadomski*, 232 Mich App 24, 28; 592 NW2d 75 (1998). If the evidence conflicts, the issue of credibility ordinarily should be left for the trier of fact. *People v Lemmon*, 456 Mich 625, 642-643; 576 NW2d 129 (1998). In a case tried without a jury, a motion for new trial is not required to preserve the issue. MCR 7.211(C)(1)(c).

The elements of possession of a controlled substance are dominion or right of control over the substance with knowledge of its presence and character. MCL 333.7403(2). An attempt offense consists of: (1) an attempt to commit an offense prohibited by law; and (2) any act towards the commission of the intended offense. MCL 750.92. A person convicted of a felony may not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in Michigan until the expiration of three years after he has paid all fines imposed for the felony, has served all terms of imprisonment imposed for the felony, and has successfully completed all conditions of probation or parole imposed for the felony. MCL 750.224f. The elements of felony-firearm are: (1) the possession of a firearm; (2) during the commission of, or the attempt to commit, a felony. MCL 750.227b.

Defendant argues that insufficient evidence existed to support his convictions or, in the alternative, that the convictions were against the great weight of the evidence. We disagree and affirm defendant's convictions. The trial court acknowledged that the officers' testimony conflicted in some respects, but was entitled to accept as credible the bulk of the officers' testimony. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). The evidence that defendant was observed holding a shotgun, coupled with the stipulation that he had a prior conviction that precluded him from owning a firearm, supported his convictions of felony-firearm and felon in possession of a firearm. The evidence that defendant was found with cocaine on his person, coupled with his admission that he had a prior conviction for a drug offense, supported an inference that he had knowledge of the character of the substance, and supported his conviction of attempted possession of cocaine. The trial court's findings of fact and conclusions of law, while brief and not overly detailed, demonstrate that the trial court was aware of the issues in the case and correctly applied the law. *Smith, supra*. The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's convictions, *Petrella, supra*, and did not preponderate so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand. *Gadomski, supra*. Defendant is not entitled to a new trial.

Affirmed.

/s/ Janet T. Neff
/s/ Brian K. Zahra
/s/ Christopher M. Murray