

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ADRIAN DAVIS,

Defendant-Appellant.

UNPUBLISHED
November 9, 2004

No. 247717
Wayne Circuit Court
LC No. 02-012943-01

Before: Murray, P.J., and Sawyer and Smolenski, JJ.

MEMORANDUM.

Defendant was convicted by a jury of felon in possession of a firearm, MCL 750.224f, assault with a dangerous weapon, MCL 750.82, and two counts of possession of a firearm during the commission of a felony, MCL 750.224b. Defendant was sentenced to concurrent terms of ten to sixty months' imprisonment on the felon in possession conviction and ten to forty-eight years' imprisonment on the assault conviction. Defendant also received two years' imprisonment for each felony-firearm conviction, these sentences to run consecutive to those imposed for the felon in possession and assault convictions. Defendant appeals as of right, and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole argument on appeal is that the trial court erred when it denied his motion to suppress weapons seized from his house during a search without a warrant. We disagree. This Court reviews the trial court's findings of fact on a motion to suppress evidence for clear error. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1998). The court's decision is reviewed de novo. *Id.*

The right against unreasonable searches and seizures is guaranteed by both the federal and state constitutions. US Const, Am IV; Const 1963, art 1, § 11. Included among the recognized exceptions to the warrant requirement is the exigent circumstances exception. *People v Jordan*, 187 Mich App 582, 587; 468 NW2d 294 (1991). This "exception is applicable where the police have probable cause to believe that an immediate search will produce specific evidence of a crime and that an immediate search without a warrant is necessary in order to (1) protect the officers or others, (2) prevent the loss or destruction of evidence, or (3) prevent the escape of an accused." *Id.*

Given that the police had information that defendant had taken weapons into his house just before the standoff with police began and that these weapons were not found on defendant's

person at the time he was arrested, we believe that the police had probable cause to believe that an immediate search would produce specific evidence of a crime, namely the weapons with which defendant had allegedly assaulted his neighbors. Moreover, because the police knew that other people remained inside defendant's home after defendant's arrest, we believe that the police also had probable cause to believe that an immediate search without a warrant was necessary both to protect the officers and to prevent the destruction of evidence.

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Michael R. Smolenski