

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID MICHAEL WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

January 12, 2006

No. 255162

Wayne Circuit Court

LC No. 03-013276

Before: O’Connell, P.J., and Smolenski and Talbot, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of possession of a firearm by a felon, MCL 750.224f(2), and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Defendant received consecutive sentences of one month to five years’ imprisonment for possession of a firearm by a felon, and two years’ imprisonment for felony-firearm. Defendant appeals as of right. We affirm.

On appeal defendant contends that there was insufficient evidence to convict him of possession of a firearm by a felon. We review de novo a challenge to the sufficiency of the evidence in a bench trial. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). When reviewing an insufficiency of the evidence claim in a criminal case, “this Court views the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found the essential elements of the crime were proved beyond a reasonable doubt.” *People v Moorer*, 262 Mich App 64, 76-77; 683 NW2d 736 (2004), citing *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000). The standard is deferential and requires that this Court draw all reasonable inferences and make credibility choices in support of the verdict. *Nowack, supra* at 400.

In the present case, defendant does not contest that he shot another man during an altercation on November 12, 2003. He further does not contest that, at his bench trial, he stipulated to the fact that he had been convicted of felonious assault.¹ Defendant’s only

¹ The stipulation incorrectly stated the prior conviction as having occurred on June 21, 2001. However, the parties later amended the stipulation to the correct date of June 8, 2000. Hence, defendant’s argument that the trial court incorrectly stated the date of the prior conviction is

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argument on appeal is that the trial court had no evidence of the sentence imposed after his prior felony conviction and, therefore, could not have determined whether the statutory five year period had lapsed. However, even assuming that defendant successfully completed all of the conditions imposed by MCL 750.224f(2) on the same day he was convicted of felonious assault, June 8, 2000, five years had not passed from the time of that conviction to the date of the current offense. Hence, there was no need to present evidence concerning defendant's ultimate disposition after his prior conviction in order to determine whether the five year period had expired. Consequently, taking the evidence in the light most favorable to the prosecution, there was sufficient evidence to support defendant's conviction for possession of a firearm by a felon.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot

(...continued)

without merit.