

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
November 25, 2014

v

ANTHONY JEMAR WILLIAMS,  
Defendant-Appellant.

No. 317677  
Wayne Circuit Court  
LC No. 11-004523-FH

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Before: O'CONNELL, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions of possession a firearm during the commission of a felony (felony-firearm), MCL 750.227b, carrying a concealed weapon, MCL 750.227, and felon in possession of a firearm, MCL 750.224f. We affirm.

On April 23, 2011, police officers on patrol saw defendant walking with two other men. When the men saw the police vehicle, they fled in different directions. Defendant ran in front of the squad car and was seen grabbing the right side of his waist and then dropping a gun. After a short chase, defendant was arrested. At trial, the parties stipulated that defendant could not lawfully possess a firearm because of a prior felony conviction.

On appeal, defendant argues that his felon in possession of a firearm conviction could not serve as the basis for his felony-firearm conviction. We disagree.

Issues of statutory interpretation are reviewed de novo. *People v Parker*, 288 Mich App 500, 504; 795 NW2d 596 (2010). However, because defendant did not raise this issue in the trial court, our review is for plain error affecting defendant's substantial rights. *People v Carines*, 460 Mich 750, 763, 774; 597 NW2d 130 (1999).

In *People v Dillard*, 246 Mich App 163, 167-169; 631 NW2d 755 (2001), this Court held that a felon in possession of a firearm conviction could serve as the basis for a felony-firearm conviction. Defendant attempts to distinguish *Dillard* on the ground that the issue was analyzed as a question of double jeopardy, rather than statutory interpretation. However, the text of MCL 750.277b was interpreted in *Dillard*, and this Court held: "Because defendant's felon in possession charge unquestionably does not constitute one of the explicitly enumerated exceptions to the felony-firearm statute, we conclude that the Legislature clearly intended to

permit a defendant charged with felon in possession to be properly charged with an additional felony-firearm count.” *Dillard*, 245 Mich App at 167-168 (footnote omitted).

However, defendant argues, the Legislature could not have considered a felon in possession of a firearm charge as a possible exception to the felony-firearm statute because that statute was not enacted until years later. The *Dillard* panel also addressed and rejected this argument:

In enacting the felon in possession statute the legislature presumably was aware of the four exceptions to the felony-firearm statute. *Walen v Dep’t of Corrections*, 443 Mich 240, 248; 505 NW2d 519 (1993) (“It is a well-known principle that the Legislature is presumed to be aware of, and thus to have considered the effect on, all existing statutes when enacting new laws.”); *People v Ramsdell*, 230 Mich App 386, 393; 585 NW2d 1 (1998). We conclude that had the Legislature wished to exclude the felon in possession charge as a basis for liability under the felony-firearm statute, the Legislature would have amended the felony-firearm statute to explicitly exclude the possibility of a conviction under the felony-firearm statute that was premised on MCL 750.224f. [*Dillard*, 246 Mich App at 168.]

Further, in *People v Calloway*, 469 Mich 448, 452; 671 NW2d 733 (2003), our Supreme Court agreed with the reasoning in *Dillard*, holding: “Because the felon in possession charge is not one of the felony exceptions in the statute, it is clear that defendant could constitutionally be given cumulative punishments when charged and convicted of both felon in possession . . . and felony-firearm[.]” (statutory citations omitted). *Dillard* and *Calloway* are binding precedent. See *People v Herrick*, 277 Mich App 255, 258; 744 NW2d 370 (2007).

Moreover, the reasoning in *Dillard* and *Calloway* is based on settled principles of statutory construction. The primary goal of statutory interpretation is to give effect to the intent of the Legislature. *People v Phillips*, 469 Mich 390, 395; 666 NW2d 657 (2003). “If the statute’s language is clear and unambiguous, we assume that the Legislature intended its plain meaning and the statute is enforced as written.” *Id.*

The felony-firearm statute, MCL 750.227b(1),<sup>1</sup> lists four exceptions: unlawful sale of a firearm, MCL 750.223; carrying a concealed weapon, MCL 750.227; unlawful possession of a pistol by a licensee, MCL 750.227a; and, alteration or removal of identifying marks from a firearm, MCL 750.230. When the Legislature provides an express list of exceptions, that list “is exclusive.” See *People v Mitchell*, 456 Mich 693, 698; 575 NW2d 283 (1998) (“[T]he Legislature’s intent in drafting the felony-firearm statute was to provide for an additional felony charge and sentence whenever a person possessing a firearm committed a felony other than those

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<sup>1</sup> MCL 750.227b(1) states:

A person who carries or has in his or her possession a firearm when he or she commits or attempts to commit a felony, except a violation of section 223, section 227, 227a or 230, is guilty of a felony, and shall be imprisoned for two years.

four explicitly enumerated in the felony-firearm statute.”). Controlling case law and the plain language of the statute make clear that a conviction on the charge of felon in possession of a firearm can serve as the basis for a felony-firearm conviction.

Affirmed.

/s/ Peter D. O’Connell  
/s/ Mark J. Cavanagh  
/s/ Karen M. Fort Hood