

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
May 16, 2013

v

ALAN CORTEZ WILLIAMS,

Defendant-Appellant.

No. 309025
Wayne Circuit Court
LC No. 11-009018-FH

Before: BECKERING, P.J., and JANSEN and M. J. KELLY, JJ.

PER CURIAM.

Defendant Alan Cortez Williams appeals by right his bench conviction of carrying a concealed weapon. See MCL 750.227(2). The trial court sentenced him to serve one year on probation for his conviction. On appeal, he argues that there was insufficient evidence to support his conviction. Because we conclude that there was sufficient evidence for the trier of fact to find that each of the elements had been established beyond a reasonable doubt, we affirm.

An informant called police officers and told them that there were several people with firearms at a specific location in Detroit. The officers proceeded to the area and questioned several persons; two persons indicated that there had been a group of people with guns at the location who recently drove off. They described the vehicles that those persons used to leave the area. One of the vehicles was a black Range Rover. The officers then searched the area and discovered a black Range Rover that they felt matched the description given to them.

The officers stopped the black Range Rover, which Williams was driving. Although he stopped, he refused to comply with one officer's request that he show his hands through the car window. The officer stated that Williams appeared to be moving around inside the car unnecessarily. An officer also testified that he asked Williams if there was a gun in the car and Williams responded that there was, but that the gun did not belong to him. The officers found a gun in the middle console for which Williams did not have a license. The officers accordingly arrested him. At trial Williams' fiancée testified that she owned the gun, had a license to carry it, and sometimes left it in the car. Despite her testimony, the trial court found Williams guilty of carrying a concealed weapon.

On appeal, Williams contends that there was insufficient evidence to convict him of the charge because the evidence showed only that the weapon was in his presence and not that he possessed it. This Court reviews a challenge to the sufficiency of the evidence by examining the “record evidence de novo in the light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *People v Roper*, 286 Mich App 77, 83; 777 NW2d 483 (2009).

Under MCL 750.227(2), it is unlawful for a person to “carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person” without a license. To prove this charge, a prosecutor must present evidence that there was a weapon in the vehicle at the time the defendant operated or occupied the vehicle, that the defendant knew that the weapon was in the vehicle, and that he or she ‘carried’ the weapon. *People v Nimeth*, 236 Mich App 616, 622; 601 NW2d 393 (1999). As our Supreme Court explained, the statute criminalizes the carrying of the “forbidden instrument” in the vehicle, which “requires something more than the potentially fortuitous intersection of presence and knowledge.” *People v Butler*, 413 Mich 377, 384; 319 NW2d 540 (1982). To that end, there must be evidence that the defendant exercised some “element of intentional control or dominion over” the weapon. *Id.* at 390 n 11.

Here, it was undisputed that Williams was operating a vehicle with a gun in the center console. Further, although Williams disputes the accuracy of the testimony, there was testimony that Williams admitted to knowing about the gun. As such, the only question is whether the prosecutor presented evidence from which a reasonable trier of fact could find that he exercised intentional control or dominion over the gun. *Id.* The officers testified that, as they approached Williams’ vehicle, they saw him moving around in the compartment. One officer said Williams moved toward the passenger seat of the car and that he believed Williams was hiding a weapon.

Given this evidence, a reasonable trier of fact could conclude that, not only did Williams know about the weapon, he actually handled the weapon and concealed it in the console as the officers approached his car—that is, a reasonable trier of fact could find that he exercised dominion and control sufficient to establish that Williams carried the weapon. Indeed, the trial court specifically stated that he believed the officer’s testimony on this issue. And this Court will not second-guess that finding. *People v Wolfe*, 440 Mich 508, 514-515; 441 NW2d 1201 (1992).

There was sufficient evidence to support Williams’ conviction.

Affirmed.

/s/ Jane M. Beckering
/s/ Kathleen Jansen
/s/ Michael J. Kelly