

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRY J. EDWARDS,

Defendant-Appellant.

UNPUBLISHED

July 30, 1996

No. 183459

LC No. 94-009598

Before: Hood, P.J., and Griffin, and J. F. Foley,* JJ.

MEMORANDUM.

Defendant appeals by right his bench trial conviction of receiving and concealing stolen property over \$100, MCL 750.535; MSA 28.803, and his subsequent guilty plea to being an habitual offender, fourth offense, MCL 769.12; MSA 28.1084.¹ We affirm.

Defendant first argues that the trial court improperly admitted a statement he made to the police because the statement was not voluntary. This Court reviews the voluntariness of a defendant's statement independently, considering the totality of the circumstances, but defers to the trial court in matters of credibility. *People v Young*, 212 Mich App 630, 634; 538 NW2d 456 (1995); *People v Haywood*, 209 Mich App 217, 226; 530 NW2d 497 (1995). The police officer who took the statement testified that defendant read and initialed his constitutional rights, that he was advised that he did not have to answer questions, and that he signed the statement and initialed the individual lines. Defendant acknowledged that he signed the statement but testified that he did not read it and did not make a statement. The trial court chose to believe the police officer and admitted the statement as voluntarily made. Because the trial court's determination of voluntariness turned on credibility, we defer to the trial court, *Young, supra*, and affirm.

Defendant next asserts that the evidence was insufficient to convict him of receiving and concealing stolen property beyond a reasonable doubt. Defendant acknowledges, however, that this claim depends solely on his assertion that his statement was not admissible. Having determined that

* Circuit judge, sitting on the Court of Appeals by assignment.

defendant's statement was admissible, we conclude that the evidence was sufficient to convict defendant beyond a reasonable doubt.

Finally, defendant argues that the trial court improperly relied upon personal experience and opinion which were not part of the record. The trial court did not refer to its personal experiences until sentencing, where it was not improper, and did not make findings or comments which indicated that it was relying upon personal experience or opinion in convicting defendant.

Affirmed.

/s/ Harold Hood

/s/ Richard Allen Griffin

/s/ John F. Foley

¹ The trial court sentenced defendant on the receiving and concealing conviction, then vacated that sentence and sentenced defendant as an habitual offender.