

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAYVON INMAN,

Defendant-Appellant.

UNPUBLISHED

April 23, 2002

No. 230159

Wayne Circuit Court

LC No. 00-001965

Before: Bandstra, P.J., and Smolenski and Meter, JJ.

PER CURIAM.

Defendant, Dayvon Inman, appeals as of right from his conviction of carrying a concealed weapon, MCL 750.227(2). We affirm.

Defendant first contends that the prosecutor presented insufficient evidence to find him guilty of carrying a concealed weapon. We review the sufficiency of the evidence in a criminal case de novo. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). In so doing, we must consider the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the charged crime were proved beyond a reasonable doubt. *Id.* However, we must not interfere with the factfinder's role, and so must not weigh the evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 478 (1992), amended 441 Mich 1201 (1992).

Carrying a concealed weapon is a general intent crime. *People v Combs*, 160 Mich App 666, 673; 408 NW2d 420 (1987). The only intent necessary to commit this offense is the intent to knowingly carry a weapon on one's person or in an automobile. *Id.* A weapon that is not discernible by ordinary observation is concealed; this includes a pistol in the jacket pocket of a defendant. *People v Clark*, 21 Mich App 712, 714-715; 176 NW2d 427 (1970).

In the present case, the trial court could have reasonably determined that defendant possessed a pistol and that the pistol was concealed. The arresting officer testified that he was right behind defendant when he saw defendant remove the pistol from his coat pocket and place it on a box. The testimony of his partner corroborated the existence of the pistol. The fact that defendant removed the pistol from his pocket showed that he knowingly carried it on his person. The pistol having been in defendant's pocket was proof of concealment. *Clark, supra* at 714-715. Viewing the facts in evidence in a light most favorable to the prosecution, there was

sufficient evidence to justify the trial court in finding beyond a reasonable doubt that defendant was guilty of carrying a concealed pistol.

Defendant also contends that the trial court's findings of fact did not include sufficient factual findings to disclose the basis for its rulings. We disagree. MCR 2.517(A) mandates that a trial court set forth its findings of fact after a bench trial, either in a written opinion or on the record. On appeal, this Court may not set aside the trial court's findings of fact unless those findings are clearly erroneous. *People v Parney*, 98 Mich App 571, 583; 296 NW2d 568 (1979); MCR 2.517(A). In application of this principle, this Court must give due regard to the trial court's special opportunity to judge the credibility of the witnesses who appeared before it. MCR 2.613(C). A finding of fact is clearly erroneous if, after a review of the entire record, this Court is left with a definite and firm conviction that a mistake has been made. *People v Everard*, 225 Mich App 455, 458; 571 NW2d 536 (1997). As long as it appears from the court's findings of fact that the trial court was aware of the factual issues and correctly applied the law, the requirements of MCR 2.517 are satisfied. *People v Wardlaw*, 190 Mich App 318, 321; 475 NW2d 387 (1991). Generally, where the factual findings are insufficient, the appropriate remedy is to remand the cause for additional fact-finding. *People v Armstrong*, 175 Mich App 181, 184; 437 NW2d 343 (1989). A remand is unnecessary, however, where the record makes it clear that the judge was aware of the factual issues, that he resolved them, and that it would not facilitate appellate review to require further explication of his thought process in reaching the verdict. *Id.*

In the present case, the trial court's findings of fact addressed the crucial issue, which was the credibility of the arresting officer regarding whether defendant had possessed the gun and placed it in the box. The trial court accepted this testimony, as well as the corroborating testimony of the arresting officer's partner. By implication, it also rejected defendant's claim that he had never possessed the gun. The record as a whole makes it clear that the evidence supported defendant's conviction, and this Court is not left with a definite and firm conviction that a mistake has been made. See *Everard, supra* at 458. Because nothing would be gained by remanding this case for further explication of the trial judge's thought process in reaching the verdict, we decline to award such relief. *Armstrong, supra* at 184.

Affirmed.

/s/ Richard A. Bandstra
/s/ Michael R. Smolenski
/s/ Patrick M. Meter