

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ROGERS,

Defendant-Appellant.

UNPUBLISHED
September 20, 2002

No. 234938
Wayne Circuit Court
LC No. 00-010961

Before: Holbrook, Jr., P.J., and Zahra and Owens, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of one count each of felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, second offense, MCL 750.227b.¹ Defendant was sentenced to five years' probation and five years' imprisonment, respectively.² He appeals as of right. We affirm.

Defendant challenges the sufficiency of the evidence supporting his convictions. Specifically, defendant contends that there was insufficient evidence establishing that he possessed a firearm, an element common to both his convictions.

A challenge to the sufficiency of the evidence supporting a conviction requires us to determine "whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt." *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000). Circumstantial evidence, and reasonable inferences arising from it, may be sufficient to prove the elements of a crime. *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999). Here, both the complainant and another witness testified that they saw defendant possessing a revolver. Indeed, the latter testified that defendant attempted to sell him the revolver. Accordingly, viewed in a light most favorable to the people, there was sufficient

¹ Defendant was acquitted of two other charges: assault with intent to murder, MCL 750.83, and discharge of a firearm in or at a building, MCL 750.234b.

² Because defendant had an earlier conviction for felony-firearm, the mandatory sentence for his felony-firearm conviction in this case was five years. MCL 750.227b(1).

evidence for the trier of fact to find that defendant possessed a firearm. Consequently, we reject defendant's challenge to the sufficiency of the evidence supporting his convictions.³

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra

/s/ Donald S. Owens

³ Alternatively, defendant contends that he is entitled to a new trial because his convictions were against the great weight of the evidence. However, defendant did not move for a new trial below. Thus, this issue is forfeited for appellate review, unless defendant can show a plain error that affected his substantial rights. *People v Carines*, 460 Mich 750, 763-765; 597 NW2d 130 (1999). Having already concluded that there was sufficient evidence supporting his convictions, we are not persuaded that plain error occurred. Therefore, defendant may not avoid forfeiture of this issue.