

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WALLACE JEROME TAYLOR,

Defendant-Appellant.

UNPUBLISHED

June 25, 2009

No. 284851

Wayne Circuit Court

LC No. 07-023529-FC

Before: O’Connell, P.J., and Bandstra and Donofrio, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529, and felonious assault, MCL 750.82. He was sentenced to a prison term of 9-1/2 to 28 years for the armed robbery conviction and to time served for the felonious assault conviction. He appeals as of right. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant’s sole claim of error on appeal is that the trial court improperly shifted the burden of proof and required him to prove his innocence when, in its findings of fact, it focused on the credibility of defendant’s testimony and did not discuss the credibility of the complainant.

We review a trial court’s factual findings for clear error and its conclusions of law de novo. MCR 2.613(C); *People v Lanzo Constr Co*, 272 Mich App 470, 473; 726 NW2d 746 (2006). Claims of constitutional error are also reviewed de novo. *People v Golba*, 273 Mich App 603, 615; 729 NW2d 916 (2007).

Although defendant is correct that the trial court focused on the perceived lack of credibility of portions of defendant’s testimony, there is no basis for concluding that the court’s comments regarding the testimony were improper. Defendant relies by analogy on decisions involving claims of improper argument by the prosecutor, but as explained in *People v Fields*, 450 Mich 94, 104-107, 110; 538 NW2d 356 (1995), comment on the credibility of a defendant’s testimony is not improper. The trial court’s discussion of the weaknesses in defendant’s testimony in this case is comparable to the court’s discussion of the weaknesses of an asserted defense in *People v Smith*, 148 Mich App 16, 24-25; 384 NW2d 68 (1985). In that case, as here, the trial court did not state that the defendant failed to prove his innocence. Defendant describes as “problematic” the fact that the trial court did not discuss the complainant’s credibility, but a failure to address credibility does not implicate defendant’s constitutional rights. Where findings

of fact are inadequate for appellate review, the appropriate remedy is to remand the case for additional findings, not reversal and a new trial as defendant seeks here. *People v Armstrong*, 175 Mich App 181, 184; 437 NW2d 343 (1989). In this case, however, the trial court found that defendant introduced the knife and that the complainant's money was missing. It is apparent that the court believed the complainant on these two disputed points. Where it is obvious from the result reached which witness the court found to be credible on disputed points, the court need not make further specific findings of credibility on the record. *People v Darden*, 132 Mich App 154, 163-164; 346 NW2d 915 (1984).

We affirm.

/s/ Peter D. O'Connell
/s/ Richard A. Bandstra
/s/ Pat M. Donofrio