

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES EDWARD FREEMAN,

Defendant-Appellant.

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UNPUBLISHED

December 15, 2005

No. 255877

Wayne Circuit Court

LC No. 04-000911-01

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Defendant appeals as of right his convictions of carrying a concealed weapon in a motor vehicle, MCL 750.227(2), felon in possession of a firearm, MCL 750.224f(2), and possession of a firearm during the commission of a felony, MCL 750.227b, entered after a bench trial. We affirm.

We review a challenge to the sufficiency of the evidence in a bench trial de novo. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). We review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that each element of the crime was proved beyond a reasonable doubt. *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The trial court's factual findings are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

Each of the charged offenses requires proof that defendant was carrying or had possession of a firearm. "Carrying" is similar to possession, and denotes intentional control or dominion over the weapon. *People v Butler*, 413 Mich 377, 390 n 11; 319 NW2d 540 (1982). Possession of a weapon may be actual or constructive, and may be proved by circumstantial evidence. *People v Hill*, 433 Mich 464, 469-470; 446 NW2d 140 (1989). "[A] defendant has constructive possession of a firearm if the location of the weapon is known and it is reasonably accessible to the defendant." *Id.* at 470-471.

We affirm. The evidence showed that defendant had been in actual possession of the revolver the previous night. The next afternoon, he was driving a vehicle in which the revolver

was concealed. At the time, defendant, who was the sole occupant of the car, had actual possession of a speed loader filled with ammunition compatible with the revolver. In light of such evidence, the trier of fact could reasonably infer that defendant knew the weapon was in the car and had constructive possession of it. While defendant testified that a friend put the gun in the car without his knowledge, the trial court did not believe him. We will not substitute our judgment for that of the trial court but will defer to the trial court's resolution of factual issues that involve the credibility of witnesses. *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello