

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

ALFONSO KIMBROUGH, JR.,

Defendant-Appellant.

UNPUBLISHED

September 21, 2001

No. 223956

Grand Traverse Circuit Court

LC No. 99-007846-FH

Before: Cavanagh, P.J., and Markey and Cooper, JJ.

MEMORANDUM.

Defendant appeals by right his jury convictions for felon in possession of a firearm, MCL 750.224f, and felony-firearm, MCL 750.227b. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the Legislature did not intend for possessory firearms charges to form the predicate felony offense for a felony-firearm charge. However, in *People v Mitchell*, 456 Mich 693; 575 NW2d 283 (1998), the Supreme Court rejected that reasoning. The Court found that the Legislature's intent in drafting the felony-firearm statute was to provide for an additional felony charge whenever a person possessing a firearm committed a felony other than the four enumerated crimes that were excluded. *Id.* at 698. The Legislature enacted the felon in possession statute without amending the felony-firearm statute to add the exclusions; thus, nothing suggests that the Legislature intended for the felon in possession offense to be excluded as a predicate to a felony-firearm offense. The reasoning in *Mitchell* is as applicable to a felon in possession charge as it is to the receiving and concealing stolen firearm charge considered in that case.

We affirm.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Jessica R. Cooper