

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
July 2, 2013

v

DEON CRAWFORD,

No. 310137  
Wayne Circuit Court  
LC No. 11-008025-FH

Defendant-Appellant.

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Before: WHITBECK, P.J., and METER and DONOFRIO, JJ.

PER CURIAM.

A jury convicted defendant of being a felon in possession of a firearm, MCL 750.224f; carrying a concealed weapon (CCW), MCL 750.227; and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant to 30 days' probation for the felon-in-possession and CCW convictions and to a two-year prison term for the felony-firearm conviction, all to be served concurrently. Defendant appeals as of right. We affirm.

Defendant argues that the trial court abused its discretion in denying his motion for a new trial on the ground that the verdict was against the great weight of the evidence. We disagree.

A new trial may be granted on some or all of the issues if a verdict is against the great weight of the evidence. MCR 6.431(B); MCR 2.611(A)(1)(e). "New trial motions based solely on the weight of the evidence regarding witness credibility are not favored." *People v Lemmon*, 456 Mich 625, 639; 576 NW2d 129 (1998). Even if the "testimony is in direct conflict and testimony supporting the verdict has been impeached, if it cannot be said as a matter of law that the testimony thus impeached was deprived of all probative value or that the jury could not believe it, the credibility of witnesses is for the jury." *Id.* at 643 (citation and internal quotation marks omitted). Exceptional circumstances that may justify a new trial include situations where "testimony contradicts indisputable physical facts or laws, [w]here testimony is patently incredible or defies physical realities, [w]here a witness's testimony is material and so inherently implausible that it could not be believed by a reasonable juror, or where the witness'[s] testimony has been seriously impeached and the case marked by uncertainties and discrepancies." *Id.* at 643-644 (citations and internal quotation marks omitted). A trial court may grant a new trial "only if the evidence preponderates heavily against the verdict so that it would be a miscarriage of justice to allow the verdict to stand." *Id.* at 627. A judge does not sit

as a thirteenth juror. *Id.* However much courts are “discontented with the result, they cannot usurp the functions of the jury.” *Id.* at 644 n 24 (citation omitted.) This Court reviews a trial court’s decision that the verdict was not against the great weight of the evidence for an abuse of discretion. *People v Roper*, 286 Mich App 77, 84; 777 NW2d 483 (2009). An abuse of discretion occurs when a trial court chooses an outcome falling outside the range of reasonable and principled outcomes. *Id.*

The evidence against defendant consisted of testimony from two police officers, Dattahn Wade and Allen Ibrahimovic. The officers saw defendant exit the passenger side of a white Cadillac parked in a driveway on Harding Street in Detroit and run between houses. However, the officers disagreed concerning on which side of the street the driveway was located and thus differed about the direction (west versus east) that defendant initially ran. Also, Officer Wade testified that he saw defendant drop a gun behind a house and reported it to Officer Ibrahimovic, whereas Officer Ibrahimovic testified that another officer told him about the gun.<sup>1</sup> Both officers testified that defendant ran from the scene and that the police pursued him. Both officers testified that the police ultimately placed defendant in custody inside the house at the location where the pursuit began and that Officer Ibrahimovic recovered a gun behind the home.

In denying defendant’s motion for new trial, the trial court observed that there were some discrepancies in the police officers’ testimony, but concluded that the verdict did not amount to a miscarriage of justice. This determination was within the range of principled outcomes. The jury could have reasonably determined that one or both officers were mistaken about some of the details, but that the inconsistencies in their testimony did not deprive their core testimony—that defendant discarded a firearm during a foot chase—of all probative value or render their testimony so inherently implausible that it could not be believed. Accordingly, the trial court did not abuse its discretion in denying defendant’s motion for a new trial.

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<sup>1</sup> Defendant contends that the officers’ testimony differed concerning how many officers were working together during the incident. However, the record reveals that Officer Wade *corrected* his initial misstatement that he had been working with only two other officers. Defendant also contends that the officers’ testimony differed concerning the number of gunshots fired before the officers saw the Cadillac in the driveway. He claims that Officer Ibrahimovic heard one gunshot, whereas Officer Wade testified about “gunshots.” However, Officer Wade’s testimony was not clear concerning whether he heard one gunshot or multiple gunshots. Defendant also suggests a discrepancy with regard to the pursuit of defendant as described by Officers Wade and Ibrahimovic, stating that according to Officer Ibrahimovic, defendant simply ran into a house (evidently without being chased). However, contrary to defendant’s contention, Officer Ibrahimovic’s testimony indicated that the police did in fact pursue defendant before defendant ran into the house. Officer Ibrahimovic testified that defendant “took off running” between houses and that officers “gave a brief chase.”

Affirmed.

/s/ William C. Whitbeck

/s/ Patrick M. Meter

/s/ Pat M. Donofrio