

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Mario Minion,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 8, 2023

Court of Appeals Case No.
22A-CR-2613

Appeal from the Marion Superior
Court

The Honorable Jose Salinas, Judge

Trial Court Cause No.
49D23-2010-CM-31220

Memorandum Decision by Judge Riley
Judges Bradford and Weissmann concur.

Riley, Judge.

STATEMENT OF THE CASE

[1] Appellant-Defendant, Mario Minion (Minion), appeals his conviction for carrying a handgun without being licensed, a Class A misdemeanor, Ind. Code §§ 35-47-2-1(a), (e) (2017).

[2] We affirm.

ISSUE

[3] Minion presents this court with one issue, which we restate as: Whether the State proved beyond a reasonable doubt that he knowingly or intentionally carried a handgun without a license.

FACTS AND PROCEDURAL HISTORY

[4] On October 7, 2020, Detective Christopher Smilko (Detective Smilko) and Officer Sergio Deleon (Officer Deleon) were on patrol in the 2900 block of MLK Street in Indianapolis, Indiana, when they observed a car driven by Minion fail to make complete stops at two different stop signs. Detective Smilko initiated a traffic stop of Minion's car. The officers observed Minion, who was the only occupant of the vehicle, reach to the passenger side seat, which, through their training and experience, caused them to fear that Minion was attempting to hide a firearm or other contraband. Detective Smilko approached the driver's side of the vehicle and asked Minion for his identification, while Officer Deleon approached the passenger side of the vehicle. Minion provided the detective with an Indiana identification card. Because of the safety concerns caused by Minion's movement toward the

passenger seat, Detective Smilko directed Minion to exit the vehicle. Minion tensed his body and asked why he was being asked to exit his vehicle, whereupon Detective Smilko and Officer Deleon acted to remove Minion from the vehicle. When Officer Deleon opened the passenger side door, he reached in with his right hand to remove the key from the ignition of Minion's vehicle, and, while doing so, steadied himself by placing his left hand on the passenger side seat where there was a hooded sweatshirt. When the officer placed his hand there, he immediately recognized the feel of a firearm underneath the sweatshirt.

[5] After being removed from the vehicle, Minion was provided his *Miranda* advisements. Minion told the officers that the firearm in the vehicle was his and that he had just purchased it. Minion showed the officers a license to carry the handgun. However, a check of Minion's Indiana Bureau of Motor Vehicles records indicated that Minion did not have a valid driver's license or a valid license to carry a firearm.

[6] On October 8, 2020, the State filed an Information, charging Minion with Class A misdemeanor carrying a handgun without being licensed and with Class A misdemeanor driving while suspended. On October 5, 2022, the trial court convened Minion's bench trial. The State had a certified record from the Indiana State Police Firearms Unit admitted into evidence that indicated that, on December 10, 2018, Minion was issued a license to carry a handgun which was valid for four years but that on February 4, 2020, a letter was mailed to Minion notifying him of a hearing to suspend his license to carry. The record

further indicated that on March 6, 2020, Minion did not appear at the suspension hearing, and his license to carry was revoked. On March 21, 2020, the suspension hearing notification letter had been returned to the Indiana State Police marked “unclaimed”. (Exh. Vol. p. 6). Minion testified at trial that he did not know that the firearm was in his car but that, in any event, he thought that he had a valid license to carry a handgun on the day of the traffic stop. Minion denied receiving any notice that his license to carry a handgun had been revoked.

[7] At the conclusion of the evidence, the trial court found Minion guilty as charged. The trial court proceeded directly to sentencing. The trial court sentenced Minion to thirty days, with eighteen days of credit for time served and twelve days suspended.

[8] Minion now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

I. Standard of Review

[9] Minion challenges the evidence supporting his Class A misdemeanor conviction for carrying a handgun without being licensed. Our standard of review of sufficiency of the evidence claims is well-established: We review such claims deferentially to the fact-finder’s decision, declining to reweigh the evidence or to reassess witness credibility, taking into consideration only the evidence that supports the judgment or verdict, and affirming unless no

reasonable fact-finder could find the offense proven beyond a reasonable doubt. *Fix v. State*, 186 N.E.3d 1134, 1138 (Ind. 2022).

II. *Carrying a Handgun Without Being Licensed*

[10] Prior to their repeal in July 2022, Indiana Code sections 35-47-2-1(a) and (e) provided that, except under certain circumstances not relevant here, “a person shall not carry a handgun in any vehicle or on or about the person’s body without being licensed under this chapter to carry a handgun” and that a person who “knowingly or intentionally” did so committed the Class A misdemeanor of carrying a handgun without being licensed. Once the State proved that the defendant carried a handgun under circumstances which are not exempt under the statute, “the burden shifts to the defendant to establish that he possessed a valid license.” *Harris v. State*, 716 N.E.2d 406, 411 (Ind. 1999); *see also Deshazier v. State*, 877 N.E.2d 200, 204 n.4 (Ind. Ct. App. 2007) (observing that “[p]roof that the defendant did not possess a valid license is not an element of the offense, but is rather a defense for which the defendant bears the burden of proof”), *trans. denied*. At the time the State charged Minion with the instant offense, the statute specifically provided that the State was not required “to negate an exemption . . . or to allege the absence of a license required under this chapter”, but rather that the “burden of proof is on the defendant to prove that he is exempt” or “that he had a license as required under this chapter.” I.C. § 35-47-2-24(a) (2017).

[11] Here, Minion argues that the evidence did not support the trial court’s conclusion that he knowingly carried the handgun found in the vehicle he was

driving on October 7, 2020, because he testified at trial that he did not know the handgun was in the vehicle. However, we have recognized that “where the accused has exclusive possession of the premises on which the contraband is found, an inference is permitted that he knew of the presence of the contraband and was capable of controlling it.” *Negash v. State*, 113 N.E.3d 1281, 1291 (Ind. Ct. App. 2018). Minion was the sole occupant of the vehicle that was stopped, and, therefore, the trial court was permitted to infer that Minion knew about the presence of the handgun under the hoodie. *See id.* In addition, at the scene of the traffic stop, Minion stated that the handgun was his and that he had just purchased it, evidence which also supports a finding that he knowingly carried the handgun. Minion’s argument on this point is merely a request that we reweigh the evidence and reassess Minion’s credibility, which we do not do as part of our review. *Fix*, 186 N.E.3d at 1138.

- [12] Minion next argues that his conviction must be reversed because there was no evidence presented from which the trial court could conclude that he knew that his license to carry had been revoked. However, this argument is not persuasive, as the State was not required to show that Minion knew that his license had been revoked in order to prove the offense. *See Wilson v. State*, 88 N.E.3d 209, 210 n.2 (Ind. Ct. App. 2017) (rejecting Wilson’s sufficiency of the evidence claim that he did not act knowingly where his license to carry had expired, as “Wilson’s knowledge whether his license expired is not an element of the crime”). Carrying a handgun without knowing that you have an invalid license is not a statutory exemption or a defense; rather, it is a defense that one

has a valid license to carry. I.C. § 35-47-2-24(a). As Minion's lack of knowledge that his license had been revoked did not negate an element of the offense or prove a defense, we do not disturb the trial court's judgment.

CONCLUSION

[13] Based on the foregoing, we conclude that the State proved beyond a reasonable doubt that Minion committed the offense of carrying a handgun without being licensed.

[14] Affirmed.

[15] Bradford, J. and Weissmann, J. concur