

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KARLOS LAMONT GLOVER,

Defendant-Appellant.

UNPUBLISHED

April 8, 1997

No. 179562

Recorder's Court

LC No. 94-001454

Before: Holbrook, Jr., P.J., and White and S. J. Latreille*, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial convictions of voluntary manslaughter, MCL 750.321; MSA 28.553, assault with intent to do great bodily harm, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to the mandatory two-year prison term for the felony-firearm conviction, eight to fifteen years' imprisonment for the manslaughter conviction, and a concurrent sentence of five to ten years' imprisonment for the assault conviction. We affirm.

First, defendant argues that the trial court should have instructed the jury that defendant, who was a victim of a felonious assault with a firearm, may have been privileged to use lethal force to prevent the escape of the felons. However, since defendant failed to object or request that an instruction regarding privilege to use lethal force to stop a fleeing felon be given to the jury, our review is precluded unless relief is necessary to avoid manifest injustice. *People v Haywood*, 209 Mich App 217, 230; 530 NW2d 497 (1995). We conclude that where the evidence did not support a claim that defendant was attempting to apprehend the victims, the trial court did not err in failing to give the instruction sua sponte, and defendant suffered no manifest injustice.

Next, defendant contends that he was entitled to an instruction that, if he was assaulted in the common areas of his apartment complex, he was not obligated to retreat. We disagree. Although a defendant does not have a duty to retreat in his own home, *People v Lenkevich*, 394 Mich 117, 123;

* Circuit judge, sitting on the Court of Appeals by assignment.

229 NW2d 298 (1975); *People v Watts*, 149 Mich App 502, 515; 386 NW2d 565 (1986), the “no-retreat” rule does not apply to the common passageways of an apartment building in which defendant resides. *People v Harris*, 56 Mich App 517, 529; 224 NW2d 680 (1974). Reviewing the instructions as a whole, we conclude that the jury instructions correctly stated the law and conveyed defendant’s self-defense theory. *People v Moldenhauer*, 210 Mich App 158, 159; 533 NW2d 9 (1995); *People v Choate*, 88 Mich App 40, 46; 276 NW2d 872 (1979).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ Stanley J. Latreille