STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARRY D. JAMES,

Defendant-Appellant.

UNPUBLISHED
November 24, 1998

No. 198485
Eaton Circuit Court
LC No. 95-000308 FC

Before: White, P.J., and Markman and Young, Jr., JJ.

PER CURIAM.

Defendant appeals of right following his jury trial conviction of four counts of possession of a bomb with unlawful intent, MCL 750.210; MSA 28.407, four counts of carrying a concealed weapon [CCW], MCL 750.227; MSA 28.424, two counts of possession of a short-barreled shotgun, MCL 750.224b; MSA 28.421(2), one count of aiding and abetting or conspiring to place explosives with the intent to destroy property, MCL 750.208; MSA 28.405, one count of conspiracy to commit assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279 and MCL 750.157a; MSA 28.354(1), and two counts of possession of a firearm during the commission of a felony [felony-firearm], MCL 750.227b; MSA 28.424(2).

Defendant was sentenced to concurrent terms of two years' imprisonment for the felony-firearm convictions, to be followed by concurrent terms of two to five years' imprisonment for the convictions of possession of a bomb with unlawful intent, CCW, and possession of a short-barreled shotgun, five to fifteen years' imprisonment for the conviction of aiding and abetting or conspiring to place an explosive with intent to destroy, and five to ten years' imprisonment for the conviction of conspiracy to commit assault with intent to do great bodily harm less than murder. We affirm.

Defendant contends that the trial court erred in denying his motion to suppress weapons and explosives seized by the police from a van in which defendant was a passenger. We disagree. As defendant essentially admits, he lacked standing to challenge the search. A defendant who seeks to challenge a search or seizure bears the burden of demonstrating that he or she "had an expectation of privacy in the object of the search and seizure and . . . that [the] expectation is one

that society is prepared to recognize as reasonable." *People v Smith*, 420 Mich 1, 28; 360 NW2d 841 (1984); see also *California v Greenwood*, 486 US 35; 108 S Ct 1625; 100 L Ed 2d 30 (1988); *Rakas v Illinois*, 439 US 128; 99 S Ct 421; 58 L Ed 2d 387 (1978).

In the instant case, defendant does not dispute the trial court's finding that defendant had not asserted any "proprietary or possessory interest in the automobile [or] the 'bundle' on its floor." See *People v Armendarez*, 188 Mich App 61, 71; 468 NW2d 893 (1991); *People v Carey*, 110 Mich App 187, 194; 312 NW2d 205 (1981). Nor did defendant make a "showing of any legitimate expectation of privacy in the interior of the automobile." *Armendarez*, *supra*. The van that was the subject of the search was driven by Lumumba Clark and was owned by Clark's girlfriend. Defendant was only a passenger riding in the van's cargo area. Accordingly, the trial court properly denied defendant's motion to suppress.

Defendant nonetheless contends that this Court should reinstate the "automatic standing" rule of *Jones v United States*, 362 US 257; 80 S Ct 725; 4 L Ed 2d 697 (1960). This Court is without authority to take such action. For purposes of Fourth Amendment analysis, the United States Supreme Court overruled *Jones*. See *United States v Salvucci*, 448 US 83; 100 S Ct 2547; 65 L Ed 2d 619 (1980). Moreover, our Supreme Court in *Smith*, *supra*, declined to construe Const 1963, art 1, § 11, as conferring any greater standing than the Fourth Amendment. We reject defendant's invitation to simply ignore the controlling decisions of the United States and Michigan Supreme Courts.

Affirmed.

/s/ Helene N. White
/s/ Stephen J. Markman
/s/ Robert P. Young, Jr.