

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LeVANDIS GRAY,

Defendant-Appellant.

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UNPUBLISHED

August 6, 1996

No. 175334

LC No. 93-8012-FH

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT MARCEL THOMAS,

Defendant-Appellant.

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No. 175369

LC No. 93-8011-FH

Before: Holbrook, Jr., P.J., and Saad and W. J. Giovan,\* JJ.

PER CURIAM.

Defendants appeal as of right from their convictions of possession with intent to deliver less than fifty grams of a controlled substance, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv); possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2); and carrying a concealed weapon, MCL 750.227; MSA 28.424. We affirm.

Defendants first argue that the trial court erroneously failed to exclude evidence of the cocaine and guns found in Gray's car because the police lacked probable cause to search and thus they were obtained pursuant to an illegal search and seizure. We disagree. Initially, we note that Thomas lacks

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

standing to argue that the search was a violation of his rights. *People v Armendarez*, 188 Mich App 61, 71; 468 NW2d 893 (1991).

While Gray has failed to allege his standing, we nevertheless find his argument unpersuasive. The police relied on information relayed by Linda Dawkins in a 911 call. Dawkins asserted that defendants had taken her television set to satisfy a drug debt she owed them, that they “had to have their money,” that she called because she was concerned for the safety of her boyfriend, whom defendants had taken with them to pawn her television set, that defendants were “talking about what they were going to do with us,” and that, although she did not know if defendants actually had guns with them that day, she knew they had weapons with them the day before. These specific and articulable facts taken together support the rational inference that defendants were possibly armed and dangerous, in possession of drugs and in the midst of using threats or violence to enforce a drug debt. Thus, although the informant’s tip did not rise to the level of probable cause, it did constitute “specific and articulable facts” sufficient to justify an investigative search for weapons. *People v Faucett*, 442 Mich 153, 159; 499 NW2d 764 (1993); *People v Van Diver*, 140 Mich App 484, 488; 364 NW2d 357 (1985).

Gray next argues that the prosecution presented insufficient evidence to support his conviction of possession with intent to deliver where he claims to not have known the drugs were in his car. We disagree. Defendant had control of the car where the drugs were found and there was evidence that defendant was working with Thomas in a drug selling operation. Viewed in a light most favorable to the prosecution, this evidence supports defendant’s conviction. *People v Wolfe*, 440 Mich 508, 522-523; 489 NW2d 748 (1992).

Defendants finally argue that their sentences are disproportionate under *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). We disagree. Defendants’ ages, lack of criminal records, employment, and minimum culpabilities are not unusual circumstances which would negate the presumption of the proportionality applied to sentences, such as defendants’, which fall within the applicable sentencing guidelines range. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994); *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995). Defendant Gray fails to persuade us that two years of college attendance is sufficiently unusual to overcome the presumption of proportionality of his sentence. Finally, Defendant Thomas, in failing to apprise the sentencing court of the additional circumstances relied upon in his appeal to demonstrate the disproportionality of his sentence, precluded that court from considering those factors. *People v Sharp*, 192 Mich App 501, 505-506; 481 NW2d 773 (1992). The lower court did not abuse its discretion in imposing sentence.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Henry W. Saad

/s/ William J. Giovan