

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALLAN OVID JONES,

Defendant-Appellant.

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UNPUBLISHED

March 18, 2021

No. 353603

Wayne Circuit Court

LC No. 19-007732-01-FH

Before: O’BRIEN, P.J., and SERVITTO and GLEICHER, JJ.

PER CURIAM.

A jury convicted Allan Ovid Jones of carrying a concealed weapon (CCW) in violation of MCL 750.227(2). Jones urges this Court to adopt a new definition of the term “carry,” which would negate his criminal liability in this case. There is no ground to revisit the well-established interpretation of the statute. We affirm.

The facts of this case are not in dispute. On the evening of September 24, 2019, police officers discovered Jones sleeping in a car parked in the driveway of an abandoned home. A loaded handgun lay in his lap. Jones did not have a license to carry this concealed weapon.

Jones was charged with and convicted of CCW. CCW is proscribed by MCL 750.227(2) as follows:

A person shall not carry a pistol concealed on or about his or her person, or, *whether concealed or otherwise, in a vehicle operated or occupied by the person*, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license. [Emphasis added.]

Jones contends that he was not “carrying” the weapon at the time of his arrest. He asks that we ignore the meaning of this term as developed through caselaw in favor of a dictionary

definition.<sup>1</sup> He relies on excerpts from several cases to establish a chain of reasoning to support this argument, but the argument remains spurious at best.

In general, the definition of “carry” within the statute is very similar to “possession.” This element is met when a person exercises some form of control over a weapon. *People v Butler*, 413 Mich 377, 390 n 11; 319 NW2d 540 (1982). A court may also consider:

(1) the accessibility or proximity of the weapon to the person of the defendant, (2) defendant’s awareness that the weapon was in the motor vehicle, (3) defendant’s possession of items that connect him to the weapon, such as ammunition, (4) defendant’s ownership or operation of the vehicle, and (5) the length of time during which defendant drove or occupied the vehicle. [*People v Green*, 260 Mich App 392, 404; 677 NW2d 363 (2004), overruled in part on other grounds *People v Anstey*, 476 Mich 436; 719 NW2d 579 (2006).]

Here, Jones was aware a loaded handgun was in his lap, giving him easy access to the weapon, and he was sitting in his own personal vehicle. Jones’s conduct clearly met a majority of the factors outlined in *Green*.

However, Jones argues that the definition of “carry” should be modified to exclude possession of a weapon in a nonmoving vehicle. The suggested change in definition would have to substantially alter the current definition of “carry” for Jones to be found innocent by some metric. Additionally, Jones’s definitional theory harbors a logical flaw. If the statute were interpreted to require transportation of a pistol at the time of arrest, we question how an arrest could ever be made. The pistol in Jones’s lap was in motion, along with Jones, when Jones drove the car into the driveway. Even were we to adopt a definition of “carry” integrating the idea of “transport,” the evidence would support Jones’s conviction.

We affirm.

/s/ Colleen A. O’Brien  
/s/ Deborah A. Servitto  
/s/ Elizabeth L. Gleicher

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<sup>1</sup> For readers interested in an extended discussion of the many meanings of the word “carry,” we recommend the majority and dissenting opinions in *Muscarella v United States*, 524 US 125; 118 S Ct 1911; 141 L Ed 2d 111 (1998). Neither the majority nor the dissent adopted the definitional approach advanced by Jones. Indeed, the “textualist” side of the argument, authored by Justice GINSBURG, observed: “I would read the words to indicate not merely keeping arms on one’s premises or in one’s vehicle, but bearing them in such manner as to be ready for use as a weapon.” *Id.* at 140.