

**STATE OF MICHIGAN
COURT OF APPEALS**

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

MICHAEL JONES,

Defendant-Appellee.

UNPUBLISHED

February 3, 2005

No. 249525

Wayne Circuit Court

LC No. 03-003233

Before: Meter, P.J., and Wilder and Schuette, JJ.

PER CURIAM.

The prosecutor appeals as of right from a circuit court order dismissing charges of carrying a concealed weapon in a vehicle, MCL 750.227, possession of marijuana with intent to deliver, MCL 333.7401(2)(d)(iii), and possession of a firearm during the commission of a felony, MCL 750.227b, following a partial grant of defendant’s motion to suppress the evidence. We reverse.

The prosecution contends that the trial court erred in rejecting its argument that the entry into defendant’s vehicle was warranted after the police observed suspected contraband in plain view. We agree. The police officer observed a “blunt” in plain view in the ash tray of defendant’s car and, based on his past experience, it was immediately apparent to the officer that the “blunt” was marijuana. *People v Champion*, 452 Mich 92, 101; 549 NW2d 849 (1996). The terms “immediately apparent” and probable cause are synonymous. *Id.* at 108, citing *Minnesota v Dickerson*, 508 US 366, 375; 113 SCt 2130; 124 LEd2d 334 (1993). Thus, the officer had probable cause to seize the blunt in question, *Champion, supra* at 102, citing *Texas v Brown*, 460 US 730, 741-742; 103 S Ct 1535; 75 LEd2d 502 (1983), and the presenting exigent circumstances (the fact that the contraband was viewed inside a vehicle) permitted the entry into the vehicle to seize the contraband. *People v Daniels*, 160 Mich App 614, 620; 408 NW2d 398 (1987), citing *People v Futrell*, 125 Mich App 568, 572-573; 336 NW2d 834 (1983). Upon the officer’s entry into the vehicle, he then observed a gun in plain view and he seized the weapon. Because the weapon was in plain view after the officer appropriately entered the vehicle to retrieve the blunt which was in plain view, the officer also had sufficient probable cause to permit the seizure of the gun without a warrant.

Reversed.

/s/ Patrick M. Meter

/s/ Kurtis T. Wilder

/s/ Bill Schuette

