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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2025**

State of Minnesota,
Respondent,

vs.

Linton Ludlow Vang,
Appellant.

**Filed December 30, 2019
Affirmed
Ross, Judge**

Ramsey County District Court
File No. 62-CR-18-631

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Mark D. Nyvold, Special Assistant Public Defender, Fridley, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Rodenberg, Judge; and Jesson,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

Appellant Linton Vang appeals from his conviction of possession of a firearm by an
ineligible person after police stopped a car in which Vang was a passenger and found

a handgun in the glove compartment. Vang moved to suppress evidence of the handgun on Fourth Amendment grounds, and the district court denied the motion, determining that Vang lacked standing to challenge the search. Vang appeals, arguing that the district court improperly denied his motion because the state gave no notice that he must establish a privacy interest in the area searched. Because Vang had the burden to show standing and the state had no duty to alert Vang of this burden, the district court did not err as a matter of law by addressing Vang's failure to make the requisite showing, and we affirm.

FACTS

St. Paul police officer Pheng Xiong stopped a car in January 2018 for a turn-signal violation. Linton Vang was the front-seat passenger. Officer Xiong discovered that Vang was the subject of three arrest warrants, and another officer placed Vang in a squad car. Officers searched the car and found a handgun in the glove compartment. The state charged Vang with possession of a firearm and ammunition by an ineligible person. Vang moved to suppress the physical evidence and statements that he made to police after his arrest, arguing that the search violated his Fourth Amendment rights. The district court denied the motion, reasoning that Vang lacked standing to challenge the search. A jury found Vang guilty of the firearm charge, and he appeals.

DECISION

Vang appeals from his conviction, arguing that the district court improperly denied his pretrial motion to suppress. We will review the district court's legal determinations de novo. *See State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

Vang raises only a legal argument concerning standing in urging us to reverse the district court's denial of his motion to suppress. A defendant cannot succeed in a motion to suppress evidence by vicariously asserting the violation of someone else's Fourth Amendment rights. *Rakas v. Illinois*, 439 U.S. 128, 133–34, 99 S. Ct. 421, 425 (1978). So-called “standing” to raise a Fourth Amendment violation requires the challenger to show a government intrusion into a place where he has a “legitimate expectation of privacy.” *See id.* at 143, 99 S. Ct. at 430 (citing *Katz v. United States*, 389 U.S. 347, 353, 88 S. Ct. 507, 512 (1967)). A mere passenger in a searched car is unsuited to contest a search unless he shows he has a legitimate expectation of privacy in the areas searched. *Id.* at 148–49, 99 S. Ct. at 433.

Vang's sole argument on appeal is that the state was required but failed to notify him that he had to establish a privacy interest in the car, prohibiting the district court from addressing whether he lacked standing. Logic and precedent defeat his theory. “The proponent of a motion to suppress has the burden of establishing that his own Fourth Amendment rights were violated by the challenged search or seizure.” *Id.* at 130, 99 S. Ct. at 424 n.1. Having this burden required Vang to demonstrate his reasonable expectation of privacy in the searched area, and the state had no duty to notify him of this fundamental legal burden.

Vang points to language in *Rakas* for a different approach. The *Rakas* Court observed that, because the prosecutor had argued previously that the petitioners lacked standing to challenge the search of a car, “[t]he prosecutor's argument gave petitioners notice that they were to be put to their proof on any issue as to which they had the burden.”

Id. The *Rakas* Court was not establishing a new notice rule; it was distinguishing a previous case in which the Court remanded on the issue of standing because the government had not challenged the defendant's standing during the suppression hearing or trial and there was an insufficient record to decide the issue on appeal. *Id.* (citing *Combs v. United States*, 408 U.S. 224, 226–27, 92 S. Ct. 2284, 2286 (1972)). This distinction reveals only the procedural infirmity resulting from the state's raising a lack of standing on appeal when the issue was never addressed by the district court. It does not create a constitutional right prohibiting the district court from addressing the issue on its own when deciding a suppression motion. Vang cites nothing in caselaw or the rules of criminal procedure that would restrict the district court from recognizing on its own and then addressing a defendant's failure to support his motion to suppress with the requisite showing that he had a reasonable expectation of privacy in the place searched.

Vang offers no challenge to the merits of the district court's decision that he lacked a reasonable expectation of privacy in the vehicle or its glove compartment. Nor does he point to any evidence in the record that would suggest that he had such an expectation. We see no legal error in the district court's decision denying Vang's motion to suppress.

Affirmed.