Court of Appeals, State of Michigan

ORDER

People of MI v Joseph Tyler Yager

Docket No. 289018

LC No. 05-290744-FH

Jane M. Beckering
Presiding Judge

William B. Murphy

Jane E. Markey
Judges

In lieu of granting the delayed application for leave to appeal, this Court VACATES defendant's sentence and REMANDS for resentencing under properly scored sentencing guidelines. Offense Variable 9 was erroneously scored at 10 points because MCL 777.39 does not contemplate scoring for mere financial injury; only physical injuries to victims are scorable. *People v Melton*, 271 Mich App 590, 595;722 NW2d 698 (2006). The proper score for that variable was zero points. Offense Variable 10 was also erroneously scored at 15 points instead of the proper score of zero points because defendant's conduct was not directed at a victim "for the primary purpose of victimization." *People v Cannon*, 481 Mich 152; 749 NW2d 257 (2008). Because the minimum sentence imposed was outside properly scored guidelines, resentencing is required. *People v Francisco*, 474 Mich 82, 89-91; 711 NW2d 44 (2006).

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 20 2009
Date

Sandra Schultz Mengel
Chief Clerk