

Court of Appeals, State of Michigan

ORDER

People of MI v David Eugene Anderson

Docket No. 297948

LC No. 09-005782-FH

Mark J. Cavanagh
Presiding Judge

Henry William Saad

Deborah A. Servitto
Judges

In lieu of granting leave to appeal, the Court orders pursuant to MCR 7.205(D)(2) that the November 19, 2009 judgment of sentence is VACATED and this matter is REMANDED for resentencing. The prosecutor has conceded that the scoring of 10 points for offense variable 9 (number of victims), MCL 777.39, was erroneous under *People v McGraw*, 484 Mich 120; 771 NW2d 655 (2009), and that defendant is entitled to resentencing based on the corrected score. The trial court must score OV 9 based on only the sentencing offense. *Id.* at 135.

This Court retains no further jurisdiction.



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

JUN 16 2010

Date

Sandra Schultz Mengel
Chief Clerk