

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Antoine Fryer

Docket No. 299413

LC No. 09-024200

Kurtis T. Wilder  
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly  
Judges

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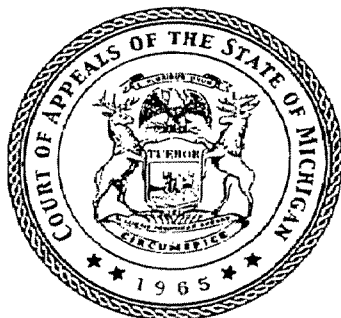
The Court orders that the motion for immediate consideration is GRANTED.

The Court further orders, pursuant to MCR 7.205(D)(2), that the July 23, 2010, order of the Wayne Circuit Court denying the admission of the other acts evidence hereby is REVERSED. Evidence of defendant's participation in a drive-by shooting at the same intersection within eight weeks of the instant drive-by shooting is more probative than prejudicial given that it relates to defendant's scheme or plan, which is central to the charges. See *People v VanderVliet*, 444 Mich 52; 508 NW2d 114 (1993), amended 445 Mich 1205 (1994). Although all damaging and relevant evidence is prejudicial to some extent, courts consider whether unfair prejudice would result in its admission. See *People v Mills*, 450 Mich 61, 75; 537 NW2d 909 (1995). The trial court is free to adopt the limitation suggested by the prosecution by reading Burns' prior testimony into the record rather than allowing him to testify in person. Under those circumstances, the record does not reflect that the jury would be likely to give undue weight to the evidence and, due to the probative value of the evidence, it should be admitted. The case is REMANDED to the circuit court for further proceedings consistent with this order.

The motion for stay is DENIED.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



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

**AUG 13 2010**

Date

*Sandra Schultz Mengel*  
Chief Clerk