

Court of Appeals, State of Michigan

ORDER

People of MI v Keith Edward Worthington

Docket No. 299745

LC No. 2006-003901-FH

David H. Sawyer
Presiding Judge

William B. Murphy, C.J.

Douglas B. Shapiro
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, this matter is REMANDED to the Calhoun Circuit Court for the purpose of allowing defendant to renew his challenge to the scoring of Offense Variable 9, where it is unclear whether the record supports the 10-point score assigned the variable. MCL 777.39; *People v McGraw*, 484 Mich 120; 771 NW2d 655 (2009); *People v Hornsby*, 251 Mich App 462; 650 NW2d 700 (2002). The circuit court shall determine the merits of the challenge on the record and resentence defendant, consistent with the terms of the plea agreement, if the offense variable was erroneously scored. *People v Francisco*, 474 Mich 82; 711 NW2d 44 (2006). This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.

Sawyer, P.J., would deny the delayed application for leave to appeal.



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

SEP 22 2010
Date

Sandra Schultz Mengel
Chief Clerk