

# Court of Appeals, State of Michigan

## ORDER

People of MI v Gary Christopher Kanaras

Docket No. 301983

LC No. 2007-216700-FH

David H. Sawyer  
Presiding Judge

Joel P. Hoekstra

Jane M. Beckering  
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the decision of the circuit court denying defendant's motion for resentencing is PEREMPTORILY REVERSED, and this matter is REMANDED for resentencing. *People v Francisco*, 474 Mich 82; 711 NW2d 44 (2006). The trial court scored PRV 5 based on inaccurate information that increased the sentencing guidelines recommendation. Defendant has four prior misdemeanor convictions and, therefore, PRV 5 should have been scored 10 points. MCL 777.55(1)(c); MCL 777.55(2)(a); MCL 777.55(3)(a). Neither the 1982 receiving and concealing charge nor the 1983 larceny charge can be scored because the PSIR contains no indication that either resulted in a conviction. *People v James*, 267 Mich App 675, 678-680; 705 NW2d 724 (2005). Moreover, the two prior attempted first-degree retail fraud convictions are low severity felony convictions and not misdemeanor convictions for scoring purposes. 1988 PA 20, § 1; MCL 750.92(3); MCL 761.1(g); MCL 777.52(2)(a); MCL 777.16r; MCL 777.19(3)(b); *People v Williams*, 243 Mich App 333, 335; 620 NW2d 906 (2000). This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 22 2011

Date

  
Chief Clerk