

Court of Appeals, State of Michigan

ORDER

People of MI v Michael Anthony Green

Docket No. 305079

LC No. 10-004151-01-FH

Amy Ronayne Krause
Presiding Judge

Donald S. Owens

Michael J. Kelly
Judges

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

Ronayne Krause, P.J., would grant defendant's application and remand for resentencing because the trial court did not afford defendant his required opportunity to allocute. At the time of sentencing, the trial court must give a defendant, among other individuals, "an opportunity to advise the court of any circumstances they believe the court should consider in imposing sentence." MCR 6.425(E)(1)(c). The trial court need not directly extend an explicit invitation specifically to the defendant; however, the court "must allow the defendant a chance to speak on his own behalf before being sentenced." *People v Petit*, 466 Mich 624, 636 (2002). Although the trial court here did give defendant an opportunity to speak, that opportunity was not extended until after the trial court had announced its sentence. In contrast to the situation in *People v Wells*, 238 Mich App 383, 392-393 (1999), the court did not in any way suggest that anything defendant might have to say would, at that point, have had any possible effect on the sentence. Because Judge Ronayne Krause would remand to afford defendant his right to allocution prior to the imposition of sentence, she would not address defendant's argument that the trial court failed to justify its upward departure from the sentencing guidelines.



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

AUG 29 2011

Date


Chief Clerk