

Court of Appeals, State of Michigan

ORDER

People of MI v Justin Pride O'Brien

Docket No. 304988

LC No. 2010-234323-FH

Joel P. Hoekstra
Presiding Judge

David H. Sawyer

Douglas B. Shapiro
Judges

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

Shapiro, J., would remand to the trial court to amend defendant's sentence to provide for 7411 status (MCL 333.7411) and further states as follows:

Defendant had never been convicted of any felony nor any prior controlled substance offense. He pleaded guilty to possession of cocaine after being arrested in possession of 2/100th's of a gram of cocaine. The probation department recommended 7411 status and the prosecution did not object to that status. At the time of sentencing, the trial court provided no reasons for declining to sentence defendant as a 7411 offender despite a specific inquiry by defense counsel. Defendant filed a motion for reconsideration which the trial court denied, again without stating any reasons for exercising its discretion in this fashion. Given that the trial court declined to offer its reasoning despite two opportunities to do so, I must conclude that the trial court had no reasons and that the trial court's refusal to afford defendant 7411 status was an abuse of discretion



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

APR 27 2012

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line. Below the line, the words "Chief Clerk" are printed.

Chief Clerk