

Court of Appeals, State of Michigan

ORDER

People of MI v Rusty Kalen Baldwin

Docket No. 308025

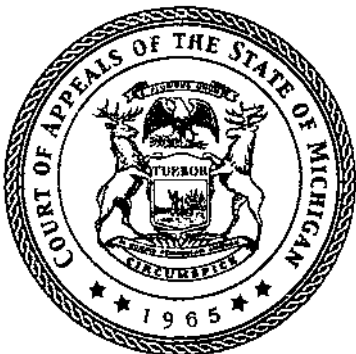
LC No. 2011-000937-FH

William B. Murphy, C.J.
Presiding Judge

Joel P. Hoekstra

Mark T. Boonstra
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the Court VACATES the circuit court's January 5, 2012 order granting defendants' motion in limine and also its December 22, 2011 order denying plaintiff's motion for reconsideration of the January 5, 2012 order. We REMAND with direction that the circuit court shall reconsider the admissibility of the prosecutor's proposed similar acts evidence in light of our Supreme Court's recent decision in *People v Watkins*, ___ Mich ___, ___ NW2d ___ (2012); 2012 Mich LEXIS 786; (Supreme Court Docket No. 142031). Regarding the prosecution's other issue, the circuit court erred in refusing to permit the prosecution to present, in its case-in-chief, the proposed expert testimony. The expert may not testify that a particular child's behavior is consistent with that of a sexually abused victim unless the defendant makes an issue of that child's behavior or attacks the child's credibility, but she may testify that delayed disclosure is common behavior in child victims of sexual abuse, and that testimony is not restricted to rebuttal. *People v Peterson*, 450 Mich 349, 373-375; 537 NW2d 857 (1995); *People v Beckley*, 434 Mich 69, 715-718; 456 NW2d 391 (1990). We do not retain jurisdiction.



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

JUL 13 2012

Date


Chief Clerk