

Court of Appeals, State of Michigan

ORDER

People of MI v Deshawn Demetrius Hutchins

Docket No. 308331

LC No. 11-001384-01-FH

Kirsten Frank Kelly
Presiding Judge

Christopher M. Murray

Michael J. Riordan
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the August 24, 2011 order of probation. Although defendant is incorrect that the trial court could not sentence defendant to *jail* and probation, see MCL 762.13(1)(b) and 771.3(2)(a), defendant is correct that the trial court was without authority to impose a one-year *prison* term as a condition of probation. MCL 762.13 unequivocally provides that once a court places a juvenile on youthful trainee status, it must choose only one of the alternatives stated in subsection (1) of that statute, and none of those alternatives permit both a prison term and probation.

The matter is REMANDED for resentencing. The circuit court shall resentence defendant within 21 days of the date this order is certified by the Clerk of the Court. This order shall have 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

NOV 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