

Court of Appeals, State of Michigan

ORDER

People of MI v Henry Thomas Jones

Docket No. 309878

LC No. 11-001927-FC

Pat M. Donofrio
Presiding Judge

Kathleen Jansen

Deborah A. Servitto
Judges

In lieu of granting defendant's delayed application for leave to appeal, this Court orders that the matter is REMANDED to give defendant the opportunity to withdraw his guilty plea to the second-degree criminal sexual conduct, MCL 750.520c, because he was not advised at the time of the plea that the penalty upon conviction included mandatory lifetime electronic monitoring. *People v Cole*, 491 Mich 325, 337-338; 817 NW2d 497 (2012). The prosecutor's statement that lifetime monitoring was a "possible penalty" was insufficient to inform defendant of the mandatory nature of the penalty.

On remand, the trial court shall also perform the ministerial task of amending the presentence investigation report (PSIR) in conformity with its comment at sentencing to reflect that the sexual abuse of the victim by defendant occurred during a single incident and was not ongoing over a three-month period. An amended copy of the PSIR shall be sent to the department of corrections. MCL 771.14(6); *People v Spanke*, 254 Mich App 642, 649; 658 NW2d 504 (2003).

We do not retain jurisdiction.



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

OCT 18 2012

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster".
Chief Clerk