

Court of Appeals, State of Michigan

ORDER

People of MI v Gilberto Delarosa

Docket No. 309934

LC No. 05-011853-FH

William C. Whitbeck
Presiding Judge

Peter D. O'Connell

Patrick M. Meter
Judges

The Court orders that, in lieu of granting defendant's delayed application for leave to appeal, this case is REMANDED to the trial court with instructions that the prosecutor establish that the facts of defendant's Texas conviction would support a felony conviction in Michigan, or, in the alternative, proceed under a different habitual offender statute. *People v Quintanilla*, 225 Mich App 477, 479; 571 NW2d 228 (1997).

In addition, the case is remanded for an evidentiary hearing on the issue of restitution. The prosecution must prove the amount of the victim's allowable loss by a preponderance of the evidence. MCL 780.767(4).

We do not retain jurisdiction.



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

NOV 21 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