

Court of Appeals, State of Michigan

ORDER

People of MI v Algernon Moore

Docket No. 311881

LC No. 12-001590-AR

Karen M. Fort Hood
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the July 27, 2012, order of the Wayne Circuit Court affirming the dismissal of the charge hereby is REVERSED. The district court erred in concluding that insufficient evidence of identification was before it. Testimony at the preliminary examination established that the complaining witness unequivocally identified defendant as one of the three persons who broke into the store and took property and money without permission. Accordingly, based on the record evidence before this Court, one reasonably could infer that defendant was the person in the video. To the extent that the record contains conflicting evidence regarding the identification of the perpetrator, where credible evidence exists to support and negate the elements of a crime, a jury must decide the resulting questions of fact. *People v Goecke*, 457 Mich 442, 469-470; 579 NW2d 868 (1998); *People v Grayer*, 235 Mich App 737, 744; 599 NW2d 527 (1999). The Court therefore reinstates the charge and the case is REMANDED for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



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

MAR 29 2013

Date

Larry S. Royster
Chief Clerk