

Court of Appeals, State of Michigan

ORDER

People of MI v James Dewayne Brown

Docket No. 312097

LC No. 11-010184-FC

Karen M. Fort Hood
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly
Judges

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented. As defendant notes, the plea agreement did not contain an agreement to an absolute minimum term of 180 months; rather, the agreement was that the minimum would not exceed 180 months. But there is nothing in the record indicating that this cap was in any way contingent upon the guidelines. That is, the agreement did not preclude the trial court from sentencing defendant to minimum sentences of 180 months even if that was outside the guidelines' scoring range. Accordingly, defendant falls squarely within the holding in *People v Wiley*, 472 Mich 153, 154; 693 NW2d 800 (2005), and is precluded from challenging his sentence on appeal. See also *People v Cobbs*, 443 Mich 276, 285; 505 NW2d 208 (1993) (holding that a defendant who pleads "with knowledge of the sentence" is precluded from challenging the proportionality of that sentence on appeal).



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

MAR 12 2013

Date


Chief Clerk