

Court of Appeals, State of Michigan

ORDER

People of MI v Ryan Christopher Smith

Docket No. 312242

LC No. 11-001972-FH

Christopher M. Murray
Presiding Judge

Kurtis T. Wilder

Cynthia Diane Stephens
Judges

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

Murray, P.J.: In lieu of granting leave to appeal, I would reverse the June 18, 2012, order of dismissal entered by the Wayne County Circuit Court and reinstate defendant's conviction of attempt carrying a concealed weapon. The trial court could not enter an order of dismissal over the prosecution's objection, even though over one year had passed since the court delayed sentencing pursuant to MCL 771.1(2). See *People v Boynton*, 185 Mich App 669, 671; 463 NW2d 174 (1990); *People Leonard*, 144 Mich App 492, 495-496; 375 NW2d 745 (1985); *People v Monday*, 70 Mich App 518, 521-522; 245 NW2d 811 (1976). However, this Court also cannot remand for sentencing, as requested by the prosecution. *Boynton, supra*. See also *People v Turner*, 92 Mich App 485, 489-490; 285 NW2d 340 (1979). I would allow the parties to address the appropriate remedy on remand.



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

MAY 07 2013

Date


Chief Clerk