

Court of Appeals, State of Michigan

ORDER

People of MI v Kenneth Demazzeon Blake

Docket No. 315676

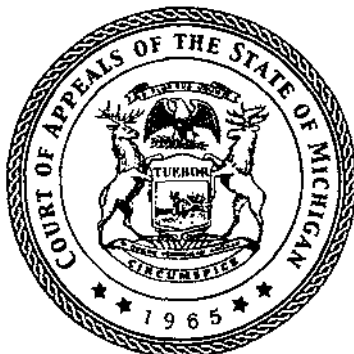
LC No. 11-000643-FC

Mark T. Boonstra
Presiding Judge

David H. Sawyer

Jane M. Beckering
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the August 14, 2012 judgment of sentence. The trial court imposed an unlawful 10-year minimum sentence. Where, as here, a defendant is convicted of first-degree criminal sexual conduct, the victim is under the age of 13 years, and the defendant is 17 years or older, MCL 750.520b(2)(b) mandates the imposition of a sentence of life imprisonment or a minimum term of 25-years. The age of the defendant is not an element of the crime charged, or a variable that may, or may not, be alleged. Rather, it is an element that must be taken into account at sentencing pursuant to the requirements of MCL 750.520b(2). This matter is REMANDED to the trial court to allow defendant to withdraw his plea. Defendant's guilty plea was not voluntarily and knowingly entered, and trial counsel rendered ineffective assistance of counsel, where defendant was not advised at the plea-taking that the sentencing agreement was unlawful and that he was subject to the imposition of a 25-year minimum sentence or life imprisonment, and lifetime electronic monitoring. *People v Cole*, 491 Mich 325; 817 NW2d 497 (2012); *People v Douglas*, 296 Mich App 186; 817 NW2d 640 (2012); *People v Schluter*, 204 Mich App 60; 514 NW2d 489 (1994); MCL 750.520b(2)(d). This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



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

MAY 15 2013

Date


Chief Clerk