

Court of Appeals, State of Michigan

ORDER

People of MI v India Shanae Tumpkin

Docket No. 320969

LC No. 13-005643-FH

Christopher M. Murray
Presiding Judge

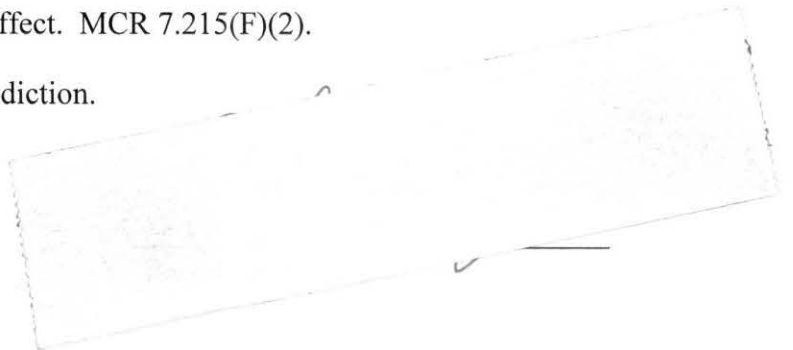
Kurtis T. Wilder

Karen M. Fort Hood
Judges

In lieu of granting leave to appeal, the Court orders pursuant to MCR 7.205(E)(2), that the January 18, 2014 order of dismissal is REVERSED and this matter is REMANDED to the trial court for reinstatement of the case and proceedings not inconsistent with this order. While MCL 776.21 extends to defendant the right to a polygraph examination upon request, there is nothing within the statute that permits the trial court to dismiss the charges where the defendant's request is unfulfilled. The courts "may read nothing into an unambiguous statute that is not within the manifest intent of the Legislature as derived from the words of the statute itself." *People v Phillips*, 469 Mich 390, 395; 666 NW2d 657 (2003), quoting *Roberts v Mecosta Co Gen Hosp*, 466 Mich 57, 63; 642 NW2d 663 (2002). Moreover, under *Phillips*, any error in the failure to conduct the requested polygraph examination would constitute a basis for reversal of a conviction only where "it is more probable than not that the error was outcome determinative." *Id.* at 396, quoting *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999). The trial court erred in dismissing the charges for the reason that defendant's polygraph examination had not yet been administered.

This order is to have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JUL 22 2014

Date


Chief Clerk