

Court of Appeals, State of Michigan

ORDER

People of MI v Michael Grayson

Docket No. 322631

LC No. 13-009527-FH

Michael J. Riordan
Presiding Judge

Christopher M. Murray

Karen M. Fort Hood
Judges

Pursuant to MCR 7.205(E)(2), and in lieu of granting plaintiff's delayed application for leave to appeal, the Court orders that the February 28, 2014 order granting defendant's motion to suppress evidence seized pursuant to the search warrant and dismissing the case are VACATED and this matter is REMANDED to the trial court for further proceedings.

The trial court erred and made a mistake of law when it shifted the burden of proof to the prosecutor at the evidentiary hearing held pursuant to *Franks v Delaware*, 438 US 154, 171-172; 98 S Ct 2674; 57 L Ed 2d 667 (1978). Defendant has the burden of proving by a preponderance of the evidence that the affiant on the search warrant deliberately, or with reckless disregard for the truth, included false statements in the affidavit, and that those false statements were necessary to a finding of probable cause. *People v Wacławski*, 286 Mich App 634, 701; 780 NW 2d 321 (2009).

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

This Court does not retain jurisdiction.



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

NOV 25 2014

Date


Chief Clerk