

# Court of Appeals, State of Michigan

## ORDER

PEOPLE OF MI V EDDIE RUBEN ALMODOVAR

Docket No. 325749

LC No. 2013-247563-FC

Pat M. Donofrio  
Presiding Judge

Kathleen Jansen

Deborah A. Servitto  
Judges

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In lieu of granting leave to appeal, pursuant to MCR 7.205(E)(2), the Court orders that this case be REMANDED to the Oakland Circuit Court to give defendant the opportunity to withdraw his no contest plea. Before defendant tendered his plea the trial judge agreed under *People v Cobbs*, 443 Mich 276; 506 NW2d 208 (1993) that defendant would receive a minimum sentence at the bottom of the guidelines. The sentencing guidelines range was 81 to 135 months. Despite the *Cobbs* agreement to sentence defendant to the bottom of the guidelines' range, which would have been 81 months, the trial court sentenced him to a minimum prison term of 9 years. Since the trial judge effectively determined that the sentence must exceed the preliminary evaluation, defendant has the right to withdraw his plea if he chooses to do so. *Cobbs*, 443 Mich 283.

This Court retains no further jurisdiction.



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

MAR-11 2015

Date

Chief Clerk