

Court of Appeals, State of Michigan

ORDER

People of MI v David Sutton

Docket No. 326365

LC No. 14-007145-FC

William B. Murphy
Presiding Judge

Douglas B. Shapiro

Mark T. Boonstra
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court REMANDS this matter to the Roscommon Circuit Court for the ministerial tasks of correcting the two inaccurate references to the age of the victim contained in the presentence report and of transmitting a copy of the corrected report to the Department of Corrections. In all other regards, the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented. The delayed application is denied without prejudice to defendant pursuing an ability-to-pay assessment once he is released from his incarceration and the imposition of the fee is enforced or if defendant can show that his extraordinary financial circumstances while incarcerated rebuts the statutory presumption of his nonindigency. *People v Jackson*, 483 Mich 271; 769 NW2d 630 (2009). This order has immediate effect. The Court does not retain jurisdiction.

Shapiro, J., would grant leave as to the sentencing issues in light of the imposition of a minimum term 10 years longer than that provided for by the top of the guidelines range.



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

MAY - 8 2015

Date

Chief Clerk