

Court of Appeals, State of Michigan

ORDER

People of MI v Michael Matthew Clegg

Docket No. 327897

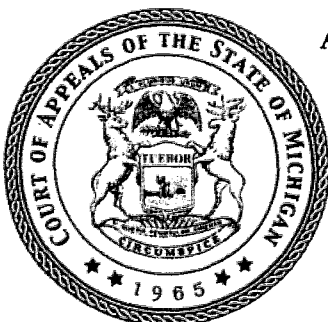
LC No. 14-006215-FC

Amy Ronayne Krause
Presiding Judge

Peter D. O'Connell

Michael F. Gadola
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the December 15, 2014 judgment of sentence and REMANDS this matter to the Alpena Circuit Court for resentencing. The trial court erred when it imposed a sentence that departs upward from the sentencing guidelines range without acknowledging that it was imposing a guidelines departure sentence, without specifically identifying substantial and compelling reasons supporting a departure and without explaining why the particular departure sentence imposed is more proportionate to the offense and offender than a different sentence would have been. *People v Smith*, 482 Mich 292; 754 NW2d 284 (2008); *People v Hornsby*, 251 Mich App 462; 650 NW2d 700 (2002). On remand, the trial court shall resentence defendant within the statutory guidelines range, unless the court identifies substantial and compelling reasons to justify the imposition of a guidelines departure sentence that were not already considered in calculating the guidelines range and explains why the sentence imposed is more proportionate than a sentence within the guidelines recommendation would have been. *People v Anderson*, 298 Mich App 178; 825 NW2d 678 (2012). This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



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

JUL 27 2015

Date


Chief Clerk