

Court of Appeals, State of Michigan

ORDER

People of MI v Kyle Andrew Jenkins

Docket No. 337792

LC No. 2016-258534-FH

Kathleen Jansen
Presiding Judge

Deborah A. Servitto

Colleen A. O'Brien
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion for stay pending appeal is GRANTED, and further proceedings are STAYED except as otherwise indicated in this order.

In lieu of granting the application for leave to appeal, the Court orders, pursuant to MCR 7.205(E)(2), that the March 17, 2017, order is VACATED IN PART. We hereby vacate the order to the extent that the circuit court determined that defendant did not reside in the Owosso residence on January 1, 2006, the date that MCL 28.735(3)(c) took effect, and that the residence is located within a “student safety zone” as defined in MCL 28.733(f). We REMAND this matter to the circuit court to hold an evidentiary hearing to determine whether defendant resided at the Owosso residence on January 1, 2006, and whether the residence is located within a student safety zone. With respect to the first issue, the parties shall address and the circuit court shall determine whether defendant resided at the Owosso residence *on* January 1, 2006, as explained in *People v Zujko*, 282 Mich App 520, 523; 765 NW2d 897 (2008) (“[A] registered sex offender shall not reside in a student safety zone unless the offender resided in that zone as of January 1, 2006.”) We retain jurisdiction.

The circuit court shall hear and decide the matter within 56 days after the Clerk’s certification of this order. The trial court shall make findings of fact and a determination on the record and cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings. The parties shall promptly file with this Court a copy of all papers filed on remand. The prevailing party shall file with this Court a copy of all orders entered on remand.

Defendant may file a supplemental brief pertaining to the issues on remand within 21 days after entry of the circuit court's order deciding the matter or 21 days after the transcript of the hearing is filed, whichever is later. The prosecutor may file a supplemental brief in response within 21 days after defendant files his supplemental brief.

Presiding Judge

O'Brien, J., would not have retained jurisdiction.



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

APR 27 2017

Date


Chief Clerk