

Court of Appeals, State of Michigan

ORDER

People of MI v Samantha Renee Eubanks

Docket No. 343714

LC No. 18-000727-02-FH

Michael J. Riordan
Presiding Judge

Christopher M. Murray

Cynthia Diane Stephens
Judges

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

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(E)(2), that the April 18, 2018 order of the Wayne Circuit Court denying the motion to reinstate the two counts of felony firearm is REVERSED. Circumstantial evidence, coupled with the reasonable inferences derived therefrom, may support a bindover. *People v Waterstone*, 296 Mich App 121, 152; 818 NW2d 432 (2012). Record evidence established that defendant was aware that her husband kept loaded handguns in the drawer of their bedroom dresser, which was only 30 inches tall and accessible to their three-year-old son. Although defendant may not have known that a specific firearm was in the drawer on the date of the shooting, she was aware that her husband had several guns and knew he did not keep all of them locked in the safe. Under the circumstances, a rational trier of fact could find beyond a reasonable doubt that defendant constructively possessed the firearm. *People v LaFountain*, 495 Mich 968; 844 NW2d 5 (2014). The trier of fact is to decide what inferences may be appropriately drawn from the evidence and the weight to be given to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). The evidence thus was sufficient to create logical inferences to show probable cause for a reasonable person to believe that firearm felonies were committed and that defendant committed those felonies. Accordingly, the district court abused its discretion in declining to bind over defendant on the firearm charges. The case is REMANDED for further proceedings consistent with this order.

The motion for stay is DENIED.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.

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



JUN 08 2018

Date


Chief Clerk