

Court of Appeals, State of Michigan

ORDER

People of MI v Ryan Lee Herrera

Docket No. 343850

LC No. 17-003295-FH; 17-003298-FC

Kathleen Jansen
Presiding Judge

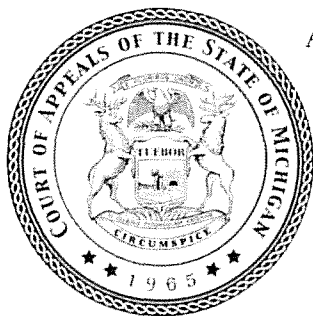
Deborah A. Servitto

Elizabeth L. Gleicher
Judges

The Court orders that the delayed application for leave to appeal is GRANTED so that this Court can review whether the additional language added into the plea agreement by the prosecution is violative of defendant's due process rights under *People v Cobbs*, 443 Mich 276; 505 NW2d 208 (1993), as it limited defendant's right to withdraw his plea. MCR 7.205(E)(4). Based on the trial court's indication that it intended to exceed its preliminary sentencing evaluation, defendant had an "absolute right" to withdraw his plea, but could not because of the language in the agreement. *Cobbs*, 443 Mich at 283. Further, this Court should review whether the term "misconduct," as used in the plea agreement, provides defendant with sufficient information to know what he can do, or not do, in order to have the benefit of his bargain.

The time for taking further steps in this appeal runs from the date of the Clerk's certification of this order. MCR 7.205(E)(3).

Servitto, J., would deny the delayed application for leave to appeal.



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

JUL 12 2018

Date


Chief Clerk