

Court of Appeals, State of Michigan

ORDER

People of MI v John Eager

Docket No. **344858**

LC No. **2017-020185-FH**

Michael F. Gadola, Judge, acting under MCR 7.211(E)(2), orders:

The confession of error is REJECTED because it does not present a reasonable basis for agreeing to the relief sought in defendant-appellant's brief. The confession of error expressly refuses to concede the claim of ineffective assistance of counsel actually raised in the relevant issue in defendant-appellant's brief and does not provide grounds for rejecting the suggestion of defendant's brief that a direct claim of instructional error as to the lack of a specific unanimity jury instruction is waived. Further, the rationale of the confession of error depending on the combined effect of acknowledging apparently unpreserved error in remarks by the trial prosecutor combined with the lack of a specific unanimity instruction appears inconsistent with the principle that this Court cannot find error requiring reversal as to unpreserved issues regarding prosecutorial error if a curative instruction could have alleviated any prejudicial effect. *People v Bennett*, 290 Mich App 465, 476; 802 NW2d 627 (2010). In accordance with MCR 7.211(C)(7), this case shall be submitted for decision through the ordinary processes of the Court and the confession of error shall be submitted to the case call panel assigned to decide this case.



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

APR 11 2019

Date

Chief Clerk