

Court of Appeals, State of Michigan

ORDER

People of MI v Kevin-Jamel Rashard Myers

Docket No. 346304

LC No. 12-011767-01-FC

Michael J. Riordan
Presiding Judge

Christopher M. Murray

Thomas C. Cameron
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the trial court's July 31, 2018 opinion and order is VACATED IN PART, and the matter REMANDED for further proceedings consistent with this order. This Court's decision in *People v Myers*, unpublished per curiam opinion of the Court of Appeals, issued February 24, 2015 (Docket No. 318599), did not address any arguments presented by defendant in his current motion for relief from judgment. Thus, the trial court erred to the extent it found defendant was precluded by MCR 6.508(D)(2) from obtaining relief. The trial court also failed to address defendant's argument that his jury was not properly instructed with regard to the elements of larceny from a person, MCL 750.357.

Having reviewed defendant's arguments raised in his motion for relief from judgment, the matter is remanded to the trial court for consideration of whether defendant has established entitlement to relief under MCR 6.508(D)(3) with respect to his claims that (1) insufficient evidence was presented to support his conviction of larceny from a person, and (2) his jury was improperly instructed regarding the elements of larceny from a person. In all other respects, the delayed application for leave to appeal is DENIED because defendant has failed to establish entitlement to relief under MCR 6.508(D). This order shall not preclude defendant from filing an application for leave to appeal from the trial court's decision on remand.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

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

Date

[Signature of Jerome W. Zimmer Jr.]

Chief Clerk