

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ROBERT WILLIAM PANN,

Defendant-Appellee.

UNPUBLISHED

January 10, 1997

No. 183881

Macomb County

Circuit Court No. 94 002616

District Court No. 94 0030

Before: Doctoroff, C.J., and Corrigan and R.J. Danhof,* JJ.

PER CURIAM.

The prosecution appeals by leave granted the circuit court's order affirming the district court, which granted defendant's motion to dismiss the charge of intentionally making a material false statement on an application for a license to purchase or carry a concealed weapon, MCL 750.232a(3); MSA 28.429(1)(3). We reverse and remand for proceedings consistent with this opinion.

Defendant signed an application to purchase or carry a concealed weapon, in which he represented that he was not "under indictment for nor have [I] ever been convicted of a felony." When he signed the application, however, defendant had two felony charges pending against him.¹ As a result, the prosecutor charged defendant with intentionally making a material false statement on the application.² As a defense, defendant pointed out that the application did not define the term "indictment" and asserted that he would have answered in the affirmative had the application asked if he had warrants issued against him.

The district court applied the dictionary definition of "indictment," which calls for a charge by a grand jury, rather than the statutory definition, which includes a pending warrant. The district court dismissed the charge against defendant, noting that defendant legitimately had understood indictment to mean a charge brought by a grand jury. After granting the prosecutor's delayed application for leave to appeal, the circuit court affirmed, reasoning that defendant needed to have a felony conviction to be guilty under the statute.³ The circuit court opined that the district court did not err in applying the

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

dictionary definition on the ground that no statutory authority existed to deny an application for a weapon license because the person merely had been indicted, not convicted, for a crime.⁴

On appeal, the prosecution argues that the lower courts erred in applying the common meaning of “indictment” when a statute defined the term. We agree. Where a statute defines a term, courts apply that definition in interpreting the statute. *People v Gregg*, 206 Mich App 208, 211-212; 520 NW2d 690 (1994). Under the Michigan Penal Code, MCL 750.10; MSA 28.200, “[t]he word ‘indictment’ includes information, presentment, complaint, warrant and any other formal written accusation.” Thus, the lower courts should have used the above statutory definition of indictment when interpreting MCL 750.232a(3); MSA 28.429(1)(3).

Instead, the courts used the dictionary definition of the term. If a statute does not define its terms expressly, a court may consult dictionary definitions. *Id.* Because the statute expressly defined the term indictment, the courts should not have utilized the dictionary definition. We reverse this case and remand for the reinstatement of charges against defendant.

Finally, defendant argues that the circuit court should not have granted leave to appeal to the prosecutor. The prosecutor did not provide this Court with an affidavit explaining the reason for the delay. Nonetheless, we decline to reverse on this issue. *People v Flowers*, 191 Mich App 169, 173; 477 NW2d 473 (1991). This Court granted leave on the merits and we have reviewed this case de novo. Because we have reviewed the substantive issue, the procedural issue is effectively moot. *People v McKendrick*, 188 Mich App 128, 144-146; 468 NW2d 903 (1991).

Reversed and remanded. We do not retain jurisdiction.

/s/ Martin M. Doctoroff

/s/ Maura D. Corrigan

/s/ Robert J. Danhof

¹ We note that defendant claims that he notified a law enforcement agency of the pending warrants when he tendered the application.

² MCL 750.232a(3); MSA 28.429(1)(3) provides: “A person who intentionally makes a material false statement on an application for a license to purchase a pistol . . . is guilty of a felony”

³ A person who has been convicted of a felony may not possess or carry a gun for at least three years, and under certain conditions five years, after the person has paid all fines, served all terms of imprisonment and successfully completed all conditions of probation or parole imposed for the violation. MCL 750.224f(1)and (2); MSA 28.421(6)(1) and (2).

⁴ When defendant completed the application, MCL 28.422(3); MSA 28.92(3) did not preclude a person against whom a warrant was issued, or who had been indicted, from obtaining a license to purchase or carry a concealed weapon. That statute has been amended since to prohibit persons who have a felony charge pending against them from obtaining a concealed weapon license. MCL 28.422(3)(d); MSA 29.92(3)(d).