

# Order

Michigan Supreme Court  
Lansing, Michigan

July 15, 2011

Robert P. Young, Jr.,  
Chief Justice

143091 & (106)

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,

v

SC: 143091  
COA: 295825  
Calhoun CC: 2004-003072-FH

RONALD LEE JEX,  
Defendant-Appellee.

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the April 28, 2011 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the Court of Appeals judgment holding that the defendant asserted a claim of jurisdictional defect for which he need not demonstrate cause or prejudice. Where the defendant pleaded no contest to home invasion, and agreed as part of the factual basis for his plea that he entered the dwelling without permission, his current claim that he was a co-lessee of the premises and that he did not need permission to enter the dwelling does not establish a potential jurisdictional defect. The defendant's newly asserted defense could only negate one element of the crime; it would not implicate the very authority of the state to charge him or bring him to trial. *People v New*, 427 Mich 482, 491 (1986). Although the Court of Appeals correctly held that a defendant's claim that his plea was not supported by an adequate factual basis is not waived by a no contest plea, *People v Mitchell*, 431 Mich 744, 749-750 (1988), in this instance the defendant provided an adequate factual basis for his plea at the time he pleaded no contest. He therefore has the burden to establish both good cause for his failure to raise his grounds for relief on appeal, and actual prejudice. MCR 6.508(D)(3)(a), (b). We REMAND this case to the Court of Appeals for it to determine whether the defendant has satisfied that burden.

We do not retain jurisdiction.



d0712

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 15, 2011

*Corbin R. Davis*

Clerk