

Order

Michigan Supreme Court
Lansing, Michigan

April 28, 2015

150221 & (15)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

ROBERT EDWARD RATHMAN,
Defendant-Appellant.

SC: 150221
COA: 322832
Washtenaw CC: 13-000341-FH
13-000457-FC

Robert P. Young, Jr.,
Chief Justice

Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein,
Justices

By order of March 3, 2015, the prosecuting attorney was directed to answer the application for leave to appeal the September 10, 2014 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Washtenaw Circuit Court in Case No. 13-341-FH, and we REMAND this case to the trial court for resentencing. The defendant's minimum sentencing guidelines called for an intermediate sanction of 0 to 17 months. An intermediate sanction does not include a prison term even if the minimum prison sentence is within the guidelines range. *People v Stauffer*, 465 Mich 633, 635 (2002). Here, the trial court did not articulate a substantial and compelling reason for imposing a prison term of 12 to 48 months. On remand, the trial court shall sentence the defendant within the appropriate sentencing guidelines range, or articulate on the record a substantial and compelling reason for departing from the sentencing guidelines range, in accordance with *People v Babcock*, 469 Mich 247 (2003).



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I, Larry S. Royster, 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.

April 28, 2015

Clerk