

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Richard Lee Spangler**

Docket No. **278506**

L.C. No. **1982-052766-FY**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal and motion to show case are DISMISSED for lack of jurisdiction because it constitutes an attempt to appeal the denial of a successive motion for relief from judgment contrary to MCR 6.502(G)(1). The exception provided by MCR 6.502(G)(2) for a successive motion for relief from judgment based on a retroactive change in the law is inapplicable. *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), clearly has no applicability, retroactive or otherwise, to this case. At the time of defendant's relevant resentencing, the judicial sentencing guidelines were in effect. Those guidelines were merely advisory. See *People v Hegwood*, 465 Mich 432, 438; 636 NW2d 127 (2001). Accordingly, *Blakely* is inapplicable to defendant's case because *Blakely* has no applicability to a merely advisory sentencing guidelines scheme. *United States v Booker*, 543 US 220, 259; 125 S Ct 738; 160 L Ed 2d 621 (2005). Defendant makes no other colorable claim of a retroactive change in the law applicable to his case.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 21 2007

Date

Sandra Schultz Mengel

Chief Clerk