

Court of Appeals, State of Michigan

ORDER

People of MI v Gerardo Muniz

Docket No. 279655

LC No. 02-022152-FH

E. Thomas Fitzgerald
Presiding Judge

Henry William Saad

Elizabeth L. Gleicher
Judges

In lieu of granting the delayed application for leave to appeal, this Court orders pursuant to MCR 7.205(D)(2) that defendant's sentence is VACATED and this matter is REMANDED for resentencing. The sentencing court erred in considering the amendment to the sentencing provisions of MCL 333.7401, effective March 1, 2003, as a substantial and compelling reason to depart from the mandatory minimum sentence that applies to defendant under the version of MCL 333.7401 that was in effect at the time defendant committed the offenses. *People v Michielutti*, 474 Mich 889; 704 NW2d 705 (2005).

This Court retains no further jurisdiction.



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

NOV 26 2007

Date

Sandra Schultz Mengel
Chief Clerk