Court of Appeals, State of Michigan

ORDER

People of MI v Robert Grayer

Docket No. 281889

LC No. 07-007416-01

William B. Murphy
Presiding Judge

Richard A. Bandstra

Michael R. Smolenski
Judges

In lieu of granting the delayed application for leave to appeal, pursuant to MCR 7.205(D)(2), the Court VACATES that portion of the sentence that ordered the defendant to pay attorney fees, and we REMAND this case to the trial court. The court erred in ordering defendant to pay attorney fees without first assessing his ability to pay. *People v Dunbar*, 264 Mich App 240, 252-256; 690 NW2d 476 (2004). On remand, the court shall address defendant's current and future financial circumstances and foreseeable ability to reimburse the county for attorney fees before determining whether he should pay those fees. At the trial court's discretion, the decision may be made based on the record without the need for a formal evidentiary hearing. *Id.*

In all other respects, this delayed application for leave to appeal is DENIED.

We do not retain jurisdiction.

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

DEC 17 2007
Date

Sandra Schultz Mengel
Chief Clerk