

Court of Appeals, State of Michigan

ORDER

People of MI v William Neil Lee

Docket No. 282448

LC No. 07-000590-FH

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court further orders that, in lieu of granting the delayed application for leave to appeal, and pursuant to MCR 7.205(D)(2), we VACATE the scoring of OV 13 and REMAND for resentencing. The record lacks evidentiary support for a conclusion that the instant offense "was part of a pattern of felonious criminal activity directly related to membership in an organized criminal group." MCL 777.43(1)(d). *People v Wilkens*, 267 Mich App 728, 740; 705 NW2d 728 (2005). On this record the defendant should not have been scored 10 points under OV 13, and the matter is remanded for resentencing.

In all other respects, the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented. We do not retain jurisdiction.



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

JAN 09 2008

Date

Sandra Schultz Mengel
Chief Clerk