

Court of Appeals, State of Michigan

ORDER

People of MI v Gene Charles Auten Jr

Docket No. 284005

LC No. 05-004947 FH, 06-005080 FH

Kurtis T. Wilder
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the March 6, 2007 judgment of sentence and REMANDS this case for resentencing within the statutory sentencing guidelines range. In the event the sentencing court departs from such range, the court must state on the record substantial and compelling reasons to justify its departure. See *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003).

We do not retain jurisdiction.

Judge Zahra would DENY the delayed application.



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

APR 16 2008

Date

Sandra Schultz Mengel
Chief Clerk