

Court of Appeals, State of Michigan

ORDER

People of MI v Robert Wayne Perry

Docket No. 284894

LC No. 07-025009-01

Karen M. Fort Hood
Presiding Judge

Helene N. White

Christopher M. Murray
Judges

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

The motion to waive the transcript required under MCR 7.205(B)(4) is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the April 7, 2008, order of the Wayne Circuit Court denying the motion to remand pending sentence hereby is REVERSED. The clear language of MCL 770.9b mandates that a defendant convicted of the sexual assault of a minor shall be detained and shall not be admitted to bail. Where the language of a statute is unambiguous, judicial construction is not permitted. *People v Morey*, 461 Mich 325, 330; 603 NW2d 250 (1999). Courts must enforce the statute as written. *Id.* By permitting defendant to be on a tether, the circuit court added a condition to the statute that the clear statutory language does not support. The case is REMANDED to the circuit court for it to immediately issue an order directing defendant to appear before it within 24 hours so he may be detained in custody until such time as he is sentenced. If defendant fails to report, the Wayne County Circuit Court must issue a warrant for his immediate arrest.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.

White, J., would hold the application in abeyance pending the filing of a transcript of the court's decision.



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

APR 25 2008

Date

Sandra Schultz Mengel
Chief Clerk