

Court of Appeals, State of Michigan

ORDER

People of MI v Jennifer Rachel Yarber

Docket No. 285511

LC No. 01-002888-FH

David H. Sawyer
Presiding Judge

Jane E. Markey

Jane M. Beckering
Judges

The Court orders that the motion for peremptory reversal pursuant to MCR 7.211(C)(4) is GRANTED. The April 25, 2008, decision of the trial court denying Appellant's application to set aside her prior conviction is PEREMPTORILY REVERSED. The trial court's rationale for denying the application for expungement contradicts the plain language of MCL 780.621(2) and usurps the role of the Legislature by creating a class of offenses in addition to those identified in MCL 780.621(2) for which it will not grant expungement requests. The nature of the offense itself does not preclude the setting aside of an offender's prior conviction and, therefore, that reason, standing alone, is insufficient to warrant denial of Appellant's application for same. MCL 780.621(2) and (9); *People v Rosen*, 201 Mich App 621, 623; 506 NW2d 609 (1993); *People v Boulding*, 160 Mich App 156, 158; 407 NW2d 613 (1986). This matter is REMANDED to the circuit court for reconsideration of the merits of Appellant's application to set aside her prior conviction. This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.



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

NOV 18 2008

Date

Sandra Schultz Mengel
Chief Clerk