

Court of Appeals, State of Michigan

ORDER

People of MI v Terral Windmon

Docket No. 287120

LC No. 07-003911-FH

William B. Murphy
Presiding Judge

David H. Sawyer

Michael R. Smolenski
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the circuit court's July 16, 2008 order granting defendant's motion for new trial, REINSTATES the jury verdict, and REMANDS this matter to the circuit court for sentencing. None of the bases cited by the juror, defense counsel or the circuit court involved the kind of external influences that would permit a juror to impeach her verdict. *People v Fletcher*, 260 Mich App 531, 539; 679 NW2d 127 (2004). And the fact that the juror sought to impeach her verdict only a few minutes after the jury was discharged is of no matter because "the jury's function ceased after it had been discharged." *People v Gabor*, 237 Mich App 501, 503; 603 NW2d 840 (1999) lv den 462 Mich 910 (2000), citing *People v Rushin*, 37 Mich App 391, 398-399; 194 NW2d 718 (1971). Therefore, there was no legal basis for overturning the jury's verdict. The trial court thus abused its discretion in granting the motion for new trial. *People v Shahideh*, 277 Mich App 111, 118; 743 NW2d 233 (2007).



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

OCT 21 2008

Date

Sandra Schultz Mengel
Chief Clerk