

Court of Appeals, State of Michigan

ORDER

People of MI v Adam Mustafa Elanani

Docket No. 290561

LC No. 08-013540-FH

Christopher M. Murray
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

The motion to remand is DENIED.

Murray, P.J., would, in lieu of granting the delayed application for leave to appeal, vacate defendant’s sentence and remand for resentencing. Although the trial court recited the necessary legal language that controls departure decisions, see *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003), and articulated at least one substantial and compelling reason (the offense variable scoring was well above the highest limit), the court did not provide a sufficient explanation for the extent of the departure independent of the reasons given to impose a departure. *People v Smith*, 482 Mich 292, 305-306, 310-311; 754 NW2d 284 (2008). The trial court’s mentioning that the case was “egregious” and that defendant is “more recidivist” does not comply with the more detailed explanation required by *Smith*.



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

APR 06 2009

Date

Sandra Schultz Mengel
Chief Clerk