

Court of Appeals, State of Michigan

ORDER

People of MI v Frederick Allen Pindzia

Docket No. 291749

LC No. 08-012791

Karen M. Fort Hood
Presiding Judge

Kurtis T. Wilder

Kirsten Frank Kelly
Judges

The Court orders that its order of May 4, 2009, is VACATED to the extent that it held the application in abeyance.

The motion to amend the application is GRANTED.

The motion for peremptory reversal is GRANTED. The April 9, 2009, order of the Wayne County Circuit Court denying the admission of other acts evidence is REVERSED. MCL 768.27a clearly provides that where, as here, defendant is accused of committing criminal sexual conduct against a minor, evidence that the defendant committed another criminal sexual offense against a minor is admissible and may be considered regarding any matter to which it is relevant. See *People v Anthony Smith (On Remand)*, 282 Mich App 191; ___ NW2d ___ (2009). The circuit court abused its discretion in denying admission of evidence regarding defendant's alleged abuse of a minor from 1974 through 1980 and his alleged abuse of another minor from 1987 to 1997. Further, photographs and additional foundational testimony that defendant allegedly produced sexually abusive material of two other minors likewise is admissible. Finally, photographs and foundational testimony related to child sexually abusive material contained on the 30 to 40 CDs allegedly possessed by defendant also is admissible. The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



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

MAY 26 2009

Date

Sandra Schultz Mengel
Chief Clerk