Court of Appeals, State of Michigan

ORDER

People of MI v Peter Bahri

Docket No. 308860

LC No. 2009-229529-FH

Kurtis T. Wilder
Presiding Judge

Kirsten Frank Kelly

Michael J. Riordan
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the Court VACATES the September 2, 2011 judgment of sentence and REMANDS this case for resentencing. For a class D felony, the guidelines range two cells up from C-II is 10 to 23 months. MCL 777.65. Thus, the trial court's statements that its minimum sentence of 25 months fell within that range were erroneous. On remand, the trial court shall either sentence defendant within the statutory guidelines range or, in the event the sentencing court departs from such range, the court must state on the record substantial and compelling reasons to justify its departure, see *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003), and explain why the sentence imposed is more proportionate than a sentence within the guidelines recommendation would have been, *People v Smith*, 482 Mich 292, 304; 754 NW2d 284 (2008).

We do not retain jurisdiction.

A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JUN 01 2012

Date

Chief Clerk