

Court of Appeals, State of Michigan

ORDER

People of MI v Steven Patrick Atkinson

Donald S. Owens
Presiding Judge

Docket No. 311626

Michael J. Kelly

LC No. 11-003571-FH

Amy Ronayne Krause
Judges

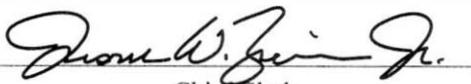
The Court orders that the motion to remand is DENIED for failure to meet the requirements of MCR 7.211(C)(1)(a). Contrary to the premise of the motion, if preservation of the issue raised by defendant in his brief on appeal regarding the constitutionality of MCL 750.520n was required for full appellate review, then that issue had to have been raised in the trial court in a timely manner, *People v Carines*, 460 Mich 750, 762 & n 7; 597 NW2d 130 (1999), and remand at this point could not render the issue timely raised where it was not raised at or prior to defendant's sentencing. We note that it may not be clear if the general rule of *Carines* requiring preservation of an issue for full appellate review applies to this issue or whether the issue might properly be subject to full appellate review despite the lack of preservation as a question of law where the facts necessary for its resolution have been presented. *People v Houston*, 237 Mich App 707, 709; 604 NW2d 706 (1999). However, any tension between those principles should be resolved by the case call panel as part of its disposition of the merits of this appeal.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 04 2013

Date


Chief Clerk