

Court of Appeals, State of Michigan

ORDER

People of MI v Rusty Kalen Baldwin

Docket No. 312730

LC No. 2011-000937-FH

Jane M. Beckering
Presiding Judge

Jane E. Markey

Mark T. Boonstra
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the Court once again REMANDS, this time with direction that the circuit court shall more completely explain its rationale when it reconsidered the admissibility of the prosecutor's proposed similar acts evidence in light of our Supreme Court's recent decision in *People v Watkins*, ___ Mich ___; ___ NW2d ___ (2012); 2012 Mich LEXIS 786; (Supreme Court Docket No. 142031). Despite the instruction in our previous remand, the circuit court indicated its belief that its prior MRE 403 analysis needed no re-inspection. We direct the court to prepare a written opinion in which it specifically relates the proposed evidence to the six factors listed in *Watkins*, and because *Watkins* indicates that those six factors do not comprise an exhaustive list, to any other factors that the circuit court deems appropriate. Additionally, as the *Watkins* decision instructs, the circuit court shall apply the balancing test to each separate piece of proposed evidence, and shall consider how the number of separate pieces of other acts evidence factors into the analysis. If the circuit court again concludes that admission of the evidence would mislead the jury and confuse the issues, the court shall explain what about the proffered evidence would mislead the jury, and how the proffered evidence would confuse the issues. The circuit court shall also state how the availability of CJ12d 20.28a affects its ultimate determination of the balancing test.

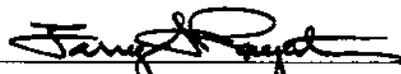
We emphasize that neither the fact of another remand nor the specificity of this order should be interpreted as indicating one way or the other any inclination by this Court as to the ultimate admissibility of the proposed evidence. We have no opinion as to whether the circuit court abused its discretion in refusing to admit the evidence. There is simply insufficiently articulated rationale to allow meaningful review. The circuit court shall submit its written opinion within 14 days after the date this order is certified by the Chief Clerk. We retain jurisdiction.



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

FEB 12 2013

Date


Chief Clerk