

Court of Appeals, State of Michigan

ORDER

People of MI v Andrew John Deschaepmeester

Docket No. 325813

LC Nos. 2014-000756-FH; 2014-000919-FH; 2014-001309-FH

Kurtis T. Wilder
Presiding Judge

Kirsten Frank Kelly

Christopher M. Murray
Judges

In lieu of granting leave to appeal, the Court orders that these three consolidated cases are REMANDED to the trial court for resentencing because the trial court erred in scoring any points for offense variable 11 of the sentencing guidelines in any of these cases where none of the relevant acts of sexual penetration occurred during the same incident so that there is no basis to conclude that one penetration arose from another penetration. *People v Johnson*, 474 Mich 96, 101-102; 712 NW2d 703 (2006); *People v Ryan*, 295 Mich App 388, 403; 819 NW2d 55 (2012). Because this error affected the sentencing guidelines range resentencing is required in each case. *People v Francisco*, 474 Mich 82, 89-90; 711 NW2d 44 (2006). MCR 7.205(E)(2). In all other respects, the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

The motion to remand is DENIED as moot in light of the remand ordered in lieu of granting the delayed application for leave to appeal.

We do not retain jurisdiction.



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

MAR 23 2015

Date

Chief Clerk