

Court of Appeals, State of Michigan

ORDER

People of MI v Devin Anthony Benvenuto

Docket No. 327933

LC No. 13-005469-01-FH

Michael J. Riordan
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens
Judges

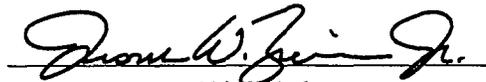
The Court orders that the motion to remand is GRANTED. Since the trial court lacked jurisdiction to resentence the defendant while defendant's application for leave to appeal was pending in our Supreme Court, see MCR 7.215(F)(1)(b) and MCR 7.302(C)(5)(a), the Court VACATES the judgment of resentence and REMANDS for resentencing consistent with *People v Lockridge*, 498 Mich 358; ___ NW2d ___ (2015). If the trial court determines at a hearing on remand that its post-*Lockridge* sentence would not be different or the defendant gives notice that he does not want to be resented, the same judgment of resentence may be entered again without the need for defendant's presence.

The Court does not retain jurisdiction.



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

November 25, 2015
Date


Chief Clerk