

Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V WILLIAM NORMAN HARMSEN

Docket No. 328039

LC No. 14-018741-FC

Elizabeth L. Gleicher
Presiding Judge

Mark J. Cavanagh

Pat M. Donofrio
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that this matter be REMANDED to the circuit court for a hearing under *US v Crosby*, 397 F3d 103 (CA 2 2005) as required by *People v Lockridge*, __ Mich __; __ NW2d __ (No. 149073, July 29, 2015), slip op p 34. The facts used to score the sentencing guidelines were not determined by a jury, nor were they effectively admitted by defendant's plea of nolo contendere. Instead those facts were found by the circuit court, which amounts to a violation of defendant's Sixth Amendment rights under *Lockridge*. On remand the circuit court must determine whether it would have imposed a materially different sentence but for that constitutional error. If the circuit court finds that the answer to that question is "yes," then that court must order resentencing. *Id.*, slip op p 34.

In all other respects the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

This Court retains no further jurisdiction.



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

AUG 12 2015

Date

Chief Clerk