

Court of Appeals, State of Michigan

ORDER

People of MI v Nicholas Emil Bueker-Decamp

Docket No. 328754

LC No. 14-000469-FH

Jane M. Beckering
Presiding Judge

David H. Sawyer

Mark T. Boonstra
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court VACATES the circuit court's July 13, 2015 order granting the prosecutor's motion to amend the information to add a count of possession of a firearm during the commission of a felony, MCL 750.227b. The basis for the charge was constructive possession. Under the facts adduced at the preliminary examination, there was insufficient evidence to support a finding of probable cause that defendant had reasonable access to the firearm during the commission of the predicate felony. *People v Johnson*, 293 Mich App 79, 82-83; 808 NW2d 815 (2011). And because those facts are dispositive, there is no reason for another preliminary examination. In all other respects, that application for leave to appeal is DENIED for lack of merit in the grounds presented.

Beckering, P. J., would grant the application for leave to appeal.



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

OCT 29 2015

Date

Jerome W. Zimmer Jr.
Chief Clerk