

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

IHAB MASALMANI,

Defendant-Appellant.

FOR PUBLICATION
September 22, 2016

No. 325662
Macomb Circuit Court
LC No. 2009-005244-FC

Before: BORRELLO, P.J., and MARKEY and RIORDAN, JJ.

BORRELLO, P.J. (*concurring*).

I concur in the result reached by my colleagues solely because I am bound by this Court's flawed reasoning in *People v Hyatt*, ___ Mich App ___, ___; ___ NW2d ___ (2016). I write separately this one time to briefly express my belief that contrary to the flawed analysis contained throughout *Hyatt* and for the reasons set forth in *People v Skinner*, 312 Mich App 15, 20; 877 NW2d 482 (2015), defendant possesses a Sixth Amendment right to choose whether he will be sentenced by a judge or a jury. However, recognizing that I am bound by *Hyatt*, I therefore must concur with the decision reached by my colleagues in this matter.

/s/ Stephen L. Borrello