

Court of Appeals, State of Michigan

ORDER

People of MI v Johnathon David Null

Docket No. 314304

LC No. 12-017834-FH

Patrick M. Meter
Presiding Judge

Donald S. Owens

Stephen L. Borrello
Judges

Pursuant to MCR 7.205(D)(2), the Court orders that in lieu of granting the delayed application for leave to appeal, this matter is REMANDED to the trial court for resentencing on defendant's conviction for unlawful use of a motor vehicle, MCL 750.414. MCL 769.34(4) requires the court to impose an intermediate sanction unless it states on the record a substantial and compelling reason to sentence the defendant to the jurisdiction of the Department of Corrections. The fact that defendant might have to serve county jail time following prison incarceration on another conviction cannot be a substantial and compelling reason to depart from the sentencing guidelines. *People v Lucey*, 287 Mich App 267, 273; 787 NW2d (2010).

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

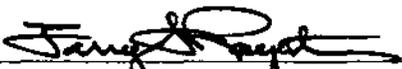
We do not retain jurisdiction.

Owens, J., would deny the delayed application for leave to appeal.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 13 2013
Date


Chief Clerk