Court of Appeals, State of Michigan

ORDER

People of MI v Ronald Hart

Docket No. 314867

LC No. 2012-001139-FH

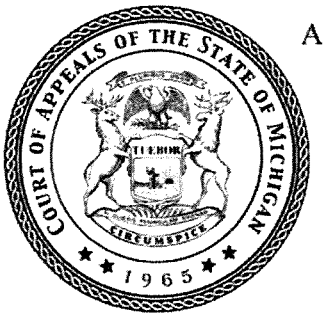
Stephen L. Borrello
Presiding Judge

William C. Whitbeck

Amy Ronayne Krause
Judges

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

Ronayne Krause, J., would grant the application for leave to appeal to allow defendant to withdraw his plea only. The trial court indicated on pages 4-5 of the plea transcript directly to defendant the following: "And I should advise you that the Court at this point would not be inclined to impose any kind of jail sanction as part of the initial sentencing, however, as your counsel has accurately stated, if, in fact, there are problems with regard to probation, the Court does reserve the right to sentence anywhere within the guidelines that the Court believes is appropriate based upon the violation. Do you understand that?" To which defendant replied that he did understand. While this may not have been explicitly called a *Cobbs* agreement, it is clear from the end of the sentencing transcript that defendant was confused about the sentence. The trial court did not indicate why the one year was imposed at the sentencing instead of what the court had originally indicated at the plea, that there would be no up-front jail, nor did the trial court give defendant an opportunity to affirm or withdraw the plea. While there is some information in the transcript that any time would be county time, that is contradicted by the trial court when it indicated at the plea directly to defendant no up-front jail would be imposed. Under MCR 6.310(B)(2)(b), defendant should be given an opportunity to affirm or withdraw his plea.



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

OCT 16 2013
Date

Chief Clerk