

Court of Appeals, State of Michigan

ORDER

People of MI v Shamazz Foster

Docket No. 316745

LC No. 12-007026-FC

Stephen L. Borrello
Presiding Judge

William C. Whitbeck

Amy Ronayne Krause
Judges

The Court orders that the motion to file a supplemental brief is GRANTED and the supplemental brief filed with the motion is accepted.

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

Ronayne Krause, J., in lieu of granting leave to appeal, the case should be remanded for re-sentencing on the CSC II convictions. The judgement of sentence indicates a 70 year maximum on the Criminal Sexual Conduct II in counts 9 and 10 and the maximum for CSC II is 15 years. MCL 750.520c(2)(a). While defendant did agree to the sentence, no case law can be found that allows a defendant to agree to a maximum in violation of the statutory maximum. Thus, Judge Ronayne Krause respectfully dissents in the decision to deny the application.



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

NOV 06 2013

Date

Chief Clerk