

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
October 31, 2013

v

CHRYSTAL LYNN-GUARDALUPE POPE,
Defendant-Appellant

No. 306372
Wayne Circuit Court
LC No. 11-002103-FC

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

RANDALL SCOTT OVERTON,
Defendant-Appellant.

No. 308999
Wayne Circuit Court
LC No. 11-002103-FC

Before: BECKERING, P.J., and O'CONNELL and SHAPIRO, JJ.

SHAPIRO, J. (*concurring*).

I concur in the affirmance of defendant Pope's conviction and sentence. I also concur in the affirmance of defendant Overton's convictions and with the majority's conclusion that pursuant to *People v Benton*, 294 Mich App 191; 817 NW2d 599 (2011) his sentence does not violate the 8th Amendment to the United State Constitution nor Article 1, Section 16 of Michigan's Constitution. I have substantial concerns, however, that the Legislature's prohibition against a judge imposing any minimum sentence less than 25 years violates the constitutional doctrine of separation of powers. See, Note, *Trial by Legislature: Why Statutory Mandatory Minimum Sentences Violate the Separation of Powers Doctrine*, 19 B.U. Pub. Int. L.J. 285 (2010). This constitutional question should, however, be resolved in a case where the issue has been squarely raised and fully briefed.

/s/ Douglas B. Shapiro