

Court of Appeals, State of Michigan

ORDER

People of MI v Julia Mary Moran

Docket No. 336847

LC No. 2016-003999-FY

Jane E. Markey
Presiding Judge

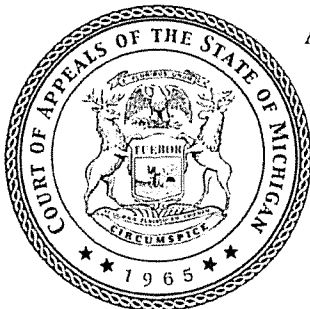
David H. Sawyer

Douglas B. Shapiro
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court further orders that the motion to stay proceedings is DENIED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court PEREMPTORILY REVERSES the decision of the Berrien Circuit Court refusing to hear and decide defendant's motions to suppress evidence predicated on a violation of defendant's Fourth Amendment right against unreasonable searches and seizures and to dismiss the underlying criminal prosecution based on an application of the affirmative defense found in § 8 of the Michigan Medical Marihuana Act, MCL 333.26428. The Court VACATES the February 3, 2017 order of the trial court effectuating its ruling and REMANDS this matter to the trial court. The trial court abused its discretion when it declined to entertain defendant's untimely motions where the court found defense counsel and not defendant responsible for the violation of the scheduling order. *Kemerko Clawson, LLC v RxIV, Inc*, 269 Mich App 347, 349; 711 NW2d 801 (2005). The trial court shall hear and decide defendant's motions on their respective merits after conducting an evidentiary hearing. This order is not intended to bar the trial court from sanctioning defense counsel should the court conclude that the untimely motions needlessly consumed and wasted the time of the judge and prosecutor. This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.



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

FEB - 8 2017

Date

Chief Clerk