Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V CAIRESSE LYNAE ELAINE FRANK

Docket No. 379479

LC No. 2025-496-072-FC

Mariam S. Bazzi
Presiding Judge

Anica Letica

Randy J. Wallace
Judges

The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.211(C)(4) and MCR 7.205(E)(2), and in lieu of granting the application for leave to appeal, we PEREMPTORILY REVERSE the January 5, 2026 order of the trial court, VACATE the judgment of sentence, and REMAND for further proceedings consistent with this order. The trial court's scoring of offense variable 3 at 100 points was in error because the court took into consideration conduct beyond defendant's sentencing offense. *People v McGraw*, 484 Mich 120, 129; 771 NW2d 655 (2009); *People v Jackson*, __ Mich App __, __; __ NW3d __ (2024) (Docket No. 366078), slip op at p. 3 (noting that ". . . the facts giving rise to the scoring [of offense variable 3] must [ ] occur during the commission of the crime for which the defendant is being sentenced."). This scoring error requires resentencing. *Jackson*, __ Mich App at __, slip at p. 2.

On remand, the case returns to a "presentence posture," *People v Lampe*, 327 Mich App 104, 112; 933 NW2d 314 (2019), meaning that every aspect of sentencing is before the trial court de novo, *People v Williams*, 208 Mich App 60, 65; 526 NW2d 614 (1994).

The trial court shall resentence defendant within 56 days of the Clerk's certification of this order.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Presiding Judge

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

March 6, 2026
Date

Chief Clerk