

MICHIGAN SUPREME COURT

People of the State of Michigan v. Bobby Jay Fisk

People of the State of Michigan v. Bobby Jay Fisk · No. SC 144261; COA 297455; Kent CC 08-011230-FC ·
Decided June 15, 2012

SUMMARY

The Michigan Supreme Court denied leave to appeal from the Court of Appeals judgment in People of the State of Michigan v. Bobby Jay Fisk. A concurrence stated that resentencing would have no practical effect because Fisk received multiple life sentences, while a dissent argued that Michigan's sentencing guidelines require the trial court to score every felony and justify any departure from the applicable guidelines.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Robert P. Young, Jr., Chief Justice; Michael F. Cavanagh; Marilyn Kelly; Stephen J. Markman; Diane M. Hathaway; Mary Beth Kelly; Brian K. Zahra
JURISDICTION	Michigan
DECIDED	June 15, 2012
DOCKET	SC 144261; COA 297455; Kent CC 08-011230-FC
DISPOSITION	cert_denied
PROCEDURAL POSTURE	The Michigan Supreme Court denied the defendant's application for leave to appeal the Court of Appeals' October 27, 2011 judgment. A concurrence and dissent addressed whether Michigan's sentencing guidelines required scoring every felony when concurrent sentences were imposed.
PRECEDENTIAL VALUE	Limited; order denying leave to appeal without merits review
PARTIES	Bobby Jay Fisk v. People of the State of Michigan

TOPICS

- sentencing guidelines
- sentencing
- statutory interpretation
- appellate procedure
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Michigan's sentencing guidelines require the trial court to score every felony conviction, including lower-class felonies, when concurrent sentences are imposed.
2. Whether the defendant's sentences exceeding statutory maximums required adjustment and corresponding limits on minimum sentences.

KEY QUOTATIONS

“MCL 777.21(2) nonetheless is explicit that the trial court must score “each offense.”” (2)

“I would remand to the trial court for it to score all the offenses for which defendant was convicted and either sentence defendant within the guideline range or else articulate substantial and compelling reasons in support of a departure.” (3)

FACTUAL BACKGROUND

The defendant had been convicted of multiple felonies and sentenced to four life sentences, two of which were nonparolable. The separate opinions focused on whether lower-class felonies had been properly scored under Michigan's sentencing guidelines when concurrent sentences were imposed. The defendant did not challenge the life sentences.

PROCEDURAL HISTORY

Fisk was convicted of multiple felonies and received four life sentences, including two nonparolable life sentences. The Court of Appeals entered a judgment on October 27, 2011. The Michigan Supreme Court denied leave to appeal because it was not persuaded that the questions presented should be reviewed.

DISPOSITION

cert_denied