

Order

Michigan Supreme Court
Lansing, Michigan

April 25, 2014

148215 & (184)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant/
Cross-Appellee,

v

DAVONTAE SANFORD,
Defendant-Appellee/
Cross-Appellant.

SC: 148215
COA: 291293
Wayne CC: 07-015018-FC

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

On order of the Court, the application for leave to appeal the September 26, 2013 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered. Pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals and REINSTATE the February 28, 2012 order of the Wayne Circuit Court denying the defendant's motion to withdraw his plea. Defendant filed a motion to withdraw his guilty plea after he was sentenced. MCR 6.310(C) permits a defendant to withdraw a guilty plea after sentencing only if the trial court determines that there was an error in the plea proceeding that would entitle the defendant to have the plea set aside. "A defendant seeking to withdraw his or her plea after sentencing must demonstrate a defect in the plea-taking process." *People v Brown*, 492 Mich 684, 693 (2012). Because the defendant did not base his motion on an error in the plea proceeding, the Court of Appeals erred by adjudicating the defendant's appeal under MCR 6.310(C). The application for leave to appeal as cross-appellant is therefore DENIED.

This order is without prejudice to the defendant's ability to file a motion for relief from judgment pursuant to MCR 6.500 *et seq.* raising the issues addressed in his motion to withdraw plea.

MCCORMACK, J., did not participate because of her prior involvement in this case.



h0422

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 25, 2014

Clerk