

# Court of Appeals, State of Michigan

## ORDER

People of MI v Brian Adam Bartenbaker

Docket No. 299040

LC No. 2009-224573-FH

Jane M. Beckering  
Presiding Judge

David H. Sawyer

Jane E. Markey  
Judges

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Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the May 28, 2009 judgment of sentence and REMANDS this case for resentencing within the statutory sentencing guidelines range. In the event the sentencing court departs from such range, the court must state on the record substantial and compelling reasons to justify its departure, see *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003), and explain why the sentence imposed is more proportionate than a sentence within the guidelines recommendation would have been, *People v Smith*, 482 Mich 292, 304; 754 NW2d 284 (2008).

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 18 2010

Date

*Sandra Schultz Mengel*  
Chief Clerk