

# Order

Michigan Supreme Court  
Lansing, Michigan

March 7, 2018

Stephen J. Markman,  
Chief Justice

156295

Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Kurtis T. Wilder  
Elizabeth T. Clement,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 156295  
COA: 338747  
Lenawee CC: 16-017854-FH

JOEL ANTHONY AGUILAR,  
Defendant-Appellant.

---

On order of the Court, the application for leave to appeal the July 17, 2017 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Lenawee Circuit Court, and we REMAND this case to the trial court for resentencing. The trial court erred by assigning 50 points to Offense Variable 11 (OV 11), MCL 777.41(1)(a), when the record does not support a finding that the five additional sexual penetrations, which occurred between the defendant and the victim over a two-month period, arose from the same sexual penetration that gave rise to the sentencing offense. See *People v Johnson*, 474 Mich 96 (2006). That error resulted in the alteration of the defendant's minimum sentencing guidelines range, thereby entitling him to resentencing. *People v Francisco*, 474 Mich 82 (2006). On resentencing, the trial court shall assign zero points to OV 11. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



a0228

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.

March 7, 2018

Clerk