Order

July 10, 2006

Clifford W. Taylor,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

131580 & (14)(15)

PEOPLE OF THE STATE OF MICHIGAN,
        Plaintiff-Appellant,

v

                                          SC: 131580
                                          COA: 269376

MARY ANN McBRIDE,
        Defendant-Appellee.
                                          Macomb CC: 05-004049-FC
_____/

        On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the June 27, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration as on leave granted. The motion to stay trial proceedings is also considered, and it is GRANTED. On motion of a party or on its own motion, the Court of Appeals may modify, set aside, or place conditions on the stay if it appears that the appeal is not being vigorously prosecuted or if other appropriate grounds appear.

        We do not retain jurisdiction.

        KELLY, J., dissents and states as follows:

        We should deny leave to appeal. At the hearing conducted pursuant to *People v Walker* (*On Rehearing*), 374 Mich 331 (1965), the trial judge suppressed the incriminating statement that defendant made to the police. The judge did so after viewing the videotape of defendant's police interview. Defendant is a deaf-mute.

        The judge found that defendant was not advised of her rights under *Miranda v Arizona,* 384 US 436 (1966), in a manner that she understood. The prosecution asserts otherwise. It has not furnished us the videotape. Without that tape, the prosecution cannot demonstrate to us, any more than it did to the Court of Appeals, that the judge's findings of fact were clearly erroneous. I would deny leave to appeal and allow the case to go to trial.