

Order

Michigan Supreme Court
Lansing, Michigan

November 13, 2006

Clifford W. Taylor,
Chief Justice

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(82)

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

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 132210
COA: 264247
Macomb CC: 2005-000413-FH

GEOFFREY LEE BROWN,
Defendant-Appellant.

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the August 11, 2006 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The motion for stay is DENIED.

KELLY, J., dissents and states as follows:

MCR 7.211(C)(1)(b) states that a motion to remand must be granted if accompanied by a certificate from the trial court indicating that the judge will grant a motion for a new trial. In this case, the Court of Appeals did not grant petitioner's motion to remand for a new trial. Instead, it took different action, remanding for an evidentiary hearing at which defendant could then move for a new trial. I would grant leave to appeal so that the Court can clarify MCR 7.211(C)(1)(b). The only motion referred to in subsection (b) appears to be a motion to remand for a new trial. I question whether the court rule allows the Court of Appeals to remand for any purpose other than the purpose sought by the petitioner here, a new trial.



I, Corbin R. Davis, 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.

November 13, 2006

Corbin R. Davis

Clerk