

Order

Michigan Supreme Court
Lansing, Michigan

September 10, 2007

Clifford W. Taylor,
Chief Justice

132736 & (21)

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: 132736
COA: 272031
Kent CC: 05-003275-FC

JOSEPH GROSS,
Defendant-Appellant.

By order of April 11, 2007, the prosecuting attorney was directed to answer the application for leave to appeal the November 15, 2006 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered. The defendant pled guilty pursuant to a plea bargain that included a prosecutorial recommendation for a sentence at the “low to middle end of the guidelines.” No such recommendation was made at sentencing, and the trial court imposed a sentence at the very top of the guidelines range, without giving the defendant an opportunity to withdraw his plea. The prosecution has now agreed that the trial court erred and that a remand is appropriate. Accordingly, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Kent Circuit Court. On remand, the court shall determine whether it would be appropriate to impose a sentence consistent with the agreed-upon sentence recommendation. If the court does not follow the recommendation, it shall give the defendant the opportunity to withdraw his plea of guilty. In all other respects, leave to appeal is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



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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.

September 10, 2007

Corbin R. Davis

Clerk