

Order

Michigan Supreme Court
Lansing, Michigan

September 24, 2007

Clifford W. Taylor,
Chief Justice

133295
& (19)

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: 133295
COA: 274849
Genesee CC: 06-018000-FC

DENNIS WAYNE VAN CLEVE,
Defendant-Appellant.

By order of July 30, 2007, the prosecuting attorney was directed to answer the application for leave to appeal the January 18, 2007 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 and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Genesee Circuit Court for resentencing. Because the penetrations in this case did not “arise out of” the sentencing offense, OV 11 should not have been scored at 50 points. *People v Johnson*, 474 Mich 96 (2006).



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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 24, 2007

Corbin R. Davis

Clerk