

# Order

Michigan Supreme Court  
Lansing, Michigan

July 15, 2010

Marilyn Kelly,  
Chief Justice

140135

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 140135  
COA: 294249  
Macomb CC: 2003-002588-FC

GARY ANTHONY HOBBS,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the October 20, 2009 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Macomb Circuit Court for resentencing. It appears that offense variable 11 was misscored by including multiple sexual penetrations of the victim by the offender beyond the sentencing offense. See MCL 777.41(2). Because the applicable guidelines range may be lower than the one within which the defendant was originally sentenced, resentencing may be required. *People v Francisco*, 474 Mich 82 (2006). On remand, the court shall sentence the defendant within the appropriate sentencing guidelines range, or articulate on the record a substantial and compelling reason for departing from the sentencing guidelines range in accordance with *People v Babcock*, 469 Mich 247 (2003).

We retain jurisdiction.



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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.

July 15, 2010

*Corbin R. Davis*

Clerk