

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEVIN PHILLIP TUCKER,

Defendant-Appellant.

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UNPUBLISHED

March 4, 2003

No. 232094

Macomb Circuit Court

LC No. 00-000180-FC

Before: Whitbeck, C.J., and Griffin and Owens, JJ.

GRIFFIN, J. (*concurring*).

I join in the majority opinion to affirm. I write separately only to urge our Supreme Court to clarify by order or opinion that the rule of automatic reversal of *People v Henry Smith*, 396 Mich 109; 240 NW2d 202 (1976), has been superseded by the plain error rule of *People v Carines*, 460 Mich 750; 597 NW2d 130 (1999).

/s/ Richard Allen Griffin