

Order

Michigan Supreme Court
Lansing, Michigan

November 29, 2007

134834

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

EDWARD FRANKLIN HULBERT,
Defendant-Appellant.

Clifford W. Taylor,
Chief Justice

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

SC: 134834
COA: 276435
Livingston CC: 03-013676-FH

On order of the Court, the application for leave to appeal the June 1, 2007 order of the Court of Appeals is considered. We DIRECT the Livingston County Prosecuting Attorney to answer the application for leave to appeal within 28 days after the date of this order. The prosecutor shall address the issues: (1) whether the trial court ever revoked the original probation sentence; (2) whether the sentence imposed was a continuation, modification or expansion of the original probation sentence, see MCL 771.4 and MCR 6.445(G); and (3) if probation was never revoked, whether a continuation of a probation sentence, which was never appealed, is a departure sentence requiring the articulation of substantial and compelling reasons on the record pursuant to *People v Babcock*, 469 Mich 247 (2003). See *People v Hendrick*, 472 Mich 555 (2005).

The application for leave to appeal remains pending.



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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.

November 29, 2007

Corbin R. Davis

Clerk