

# Order

Michigan Supreme Court  
Lansing, Michigan

December 21, 2007

Clifford W. Taylor,  
Chief Justice

133896(78)

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: 133896  
COA: 265576  
Kent CC: 04-006801-FH

VICTOR GLEN CRON,  
Defendant-Appellant.

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On order of the Court, the motion for reconsideration of this Court's September 10, 2007 order is considered, and it is GRANTED. We VACATE our order dated September 10, 2007. On reconsideration, the application for leave to appeal the March 22, 2007 judgment of the Court of Appeals is considered. Pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals to the extent it affirms the defendant's conviction for fourth-degree criminal sexual conduct, we VACATE the defendant's conviction and sentence for fourth-degree criminal sexual conduct, and we REMAND this case to the Kent Circuit Court for resentencing on the defendant's remaining conviction. In this case, the jury should not have been instructed on fourth-degree criminal sexual conduct, because that offense is not a necessarily included lesser offense of second-degree criminal sexual conduct. See *People v Nyx*, 479 Mich 112 (2007). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

CORRIGAN, J., would deny the motion for reconsideration.



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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.

December 21, 2007

*Corbin R. Davis*

Clerk