

Order

Michigan Supreme Court
Lansing, Michigan

September 11, 2009

Marilyn Kelly,
Chief Justice

138406

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: 138406
COA: 276689
Wayne CC: 06-007491-01

WILLIAM EDWARD CHAPMAN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 15, 2009 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals, and VACATE the defendant's convictions for third-degree criminal sexual conduct and the sentences imposed by the Wayne Circuit Court. MCL 750.520d(1)(a) provides that a person is guilty of third-degree criminal sexual conduct if the person engages in sexual penetration with a victim who "is at least 13 years of age and under 16 years of age." The evidence established that the defendant engaged in sexual penetration with the victim on several occasions between September 2005 and June 2006, but did not establish that these acts occurred prior to the victim's sixteenth birthday in February 2006. Taking the evidence in the light most favorable to the prosecutor, we find that a rational trier of fact could not find the defendant guilty beyond a reasonable doubt of the charged offense. *People v Hardiman*, 466 Mich 417, 421 (2002). The defendant's convictions of accosting a child for an immoral purpose, furnishing liquor to a minor, and two counts of distributing marijuana to a minor are unaffected by this order. We REMAND this case to the Wayne Circuit Court for entry of an amended judgment of sentence consistent with this order.



d0908

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 11, 2009

Corbin R. Davis

Clerk