

Order

Michigan Supreme Court
Lansing, Michigan

March 23, 2011

Robert P. Young, Jr.,
Chief Justice

140921 (63)

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee/
Cross-Appellant,

v

SC: 140921
COA: 287859
Branch CC: 06-108611-FH

TIMOTHY ALLEN MILLER,
Defendant-Appellant/
Cross-Appellee.

By order of June 28, 2010, the application for leave to appeal as cross-appellant from the February 16, 2010 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Smith* (Docket No. 140371). On order of the Court, the case having been decided on December 29, 2010, 488 Mich 193 (2010), the application for leave to appeal as cross-appellant is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the Court of Appeals judgment that vacated the defendant's sentence and remanded for resentencing, and we REINSTATE the judgment of sentence. Offense Variable 19 was correctly scored at 10 points. See *People v Smith, supra*.



d0316

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.

March 23, 2011

Corbin R. Davis

Clerk