

# Order

Michigan Supreme Court  
Lansing, Michigan

April 28, 2011

Robert P. Young, Jr.,  
Chief Justice

139735

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,

v

SC: 139735  
COA: 281868  
Oakland CC: 2007-212596-FC

PAUL CHESTER GAGNIER,  
Defendant-Appellant.

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By order of March 31, 2010, the application for leave to appeal the August 6, 2009 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 is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court. The trial court articulated substantial and compelling reasons to support a departure from the sentencing guidelines but failed to articulate any rationale to justify the extent of the particular departure imposed in this case. *People v Smith*, 482 Mich 292 (2008). On remand, the trial court shall either issue an order that articulates why this level of departure is warranted, or resentence the defendant. 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.

We do not retain jurisdiction.



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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.

April 28, 2011

*Corbin R. Davis*

Clerk