

Order

Michigan Supreme Court
Lansing, Michigan

July 30, 2013

Robert P. Young, Jr.,
Chief Justice

146740

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 146740
COA: 307184
Wayne CC: 11-001499-FC

BYRON DEANDRE JONES,
Defendant-Appellant.

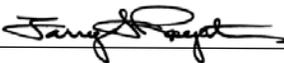
On order of the Court, the application for leave to appeal the January 24, 2013 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the portion of the Court of Appeals judgment stating that “[a] scoring decision is not clearly erroneous if the record contains *any* evidence in support of the decision” and “[s]coring decisions for which there is any evidence in support will be upheld.” *People v Jones*, 299 Mich App 284, 286 (2013) (quoting *People v Hicks*, 259 Mich App 518, 522 (2003), and *People v Hornsby*, 251 Mich App 462, 468 (2002)). As this Court stated in *People v Osantowski*, 481 Mich 103, 111 (2008), an appellate court reviews for clear error a trial court’s finding of facts, and “[a] trial court determines the sentencing variables by reference to the record, **using the standard of preponderance of the evidence.**” (Emphasis added.) In all other respects, leave to appeal is DENIED because we are not persuaded that the questions presented should be reviewed by this Court.



s0722

I, Larry S. Royster, 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.

July 30, 2013


Clerk