

# Order

Supreme Court  
Lansing, Michigan

September 23, 2005

Clifford W. Taylor,  
Chief Justice

128587

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-Appellant,

v

SC: 128587  
COA: 252567  
Calhoun CC: 94-001864-FC

BENJAMIN JAMES O'DONNELL  
Defendant-Appellee.

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On order of the Court, the application for leave to appeal the April 19, 2005 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REINSTATE defendant's armed robbery conviction. The decisions in *People v Randolph*, 466 Mich 532 (2002), and *People v Scruggs*, 256 Mich App 303 (2003), are to be given limited retroactive effect, applying only to those cases pending on appeal in which the issue was raised and preserved. *People v Cornell*, 466 Mich 335, 367 (2002); *People v Pasha*, 466 Mich 378, 384 (2002).

CAVANAGH and KELLY, JJ., would grant or deny leave to appeal.



s0919

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 23, 2005

*Corbin R. Davis*

Clerk