

# Order

Michigan Supreme Court  
Lansing, Michigan

October 3, 2007

Clifford W. Taylor,  
Chief Justice

133844

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-Appellee,

v

SC: 133844  
COA: 267500  
Genesee CC: 03-013153-FC

JOHN MICHAEL CADARETTE,  
Defendant-Appellant.

On order of the Court, the application for leave to appeal the April 12, 2007 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 REMAND this case to the Genesee Circuit Court for further proceedings consistent with this order. The record makes clear that the trial judge provided a preliminary sentence evaluation in chambers, off the record. At the guilty plea hearing, the prosecutor disclaimed any plea agreement. Defense counsel indicated that there was a discussion in chambers regarding an agreement for a minimum sentence that was within the guidelines and comported with the “two-thirds” rule and for a maximum sentence no greater than 32 years. The court specifically stated that it would sentence within the guidelines to which the parties had agreed in chambers, but failed to specifically affirm or disclaim the agreement concerning the maximum sentence. At the outset of the sentencing proceeding, defense counsel again recited the deal, and the trial judge again failed to affirm the agreement for a maximum term no greater than 32 years. The record therefore demonstrates an attempt to reach an agreement under *People v Cobbs*, 443 Mich 276 (1993), but there is no clear agreement on the record as to the terms of the alleged agreement.

On remand the court shall give the defendant the opportunity to withdraw his plea of guilty. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



d0926

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.

October 3, 2007

*Corbin R. Davis*

Clerk