

Order

Michigan Supreme Court
Lansing, Michigan

January 24, 2008

Clifford W. Taylor,
Chief Justice

134993

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: 134993
COA: 271046
Oakland CC: 06-207850-FH
50th DC: 06-52591-SL

FRANK STEPHENS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 20, 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 we REMAND this case to the 50th District Court for a determination whether the evidence presented at the preliminary examination was sufficient, by a preponderance of the evidence, to establish the corpus of the crime charged in the absence of the statement the defendant made to the police. *People v Konrad*, 449 Mich 263, 269-270; 536 NW2d 517 (1995) (a defendant's confession may not be admitted unless there is direct or circumstantial evidence independent of the confession establishing [1] the occurrence of the specific injury and [2] some criminal agency as the source of the injury). The Court of Appeals erred in ruling that the defendant had waived the right to claim error in the district court's use of his statement to the police by supposedly stipulating to the admission of the statement. The Court of Appeals further erred by independently determining that the evidence presented at the preliminary examination was sufficient to create probable cause apart from defendant's statement, when such a determination was not made by either the district court or the Oakland Circuit Court.

CORRIGAN, J., would deny leave to appeal.



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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.

January 24, 2008

Corbin R. Davis

Clerk