

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Jason Dearing

Docket No. 279941

LC No. 06-013816-01

David H. Sawyer  
Presiding Judge

Joel P. Hoekstra

Jane E. Markey  
Judges

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Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES Appellant's sentence and REMANDS this matter the trial court for resentencing. The habitual offender act does not mandate increasing the maximum sentence, MCL 769.11, and, therefore, a trial court has discretion on whether to impose an increased sentence as authorized by the act, *People v Bewersdorf*, 438 Mich 55, 66; 475 NW2d 231 (1991); *People v Alexander*, 234 Mich App 665, 673; 599 NW2d 749 (1999). On remand, the trial court may exercise its discretion on whether to sentence in accordance with the sentence agreement. This order has immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 20 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk