

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
December 13, 2012

v

JEFFERY TODD BARNES,
Defendant-Appellant.

No. 307372
St. Joseph Circuit Court
LC No. 03-011781-FC

Before: SERVITTO, P.J., and MARKEY and MURRAY, JJ.

MURRAY, J (*concurring*).

I concur with the decision to affirm defendant's sentences, but write separately merely to point out that I would review the trial court's decision without reference to the standards in *People v Babcock*, 469 Mich 247, 255-256; 666 NW2d 231 (2003). *Babcock* addressed the procedures and analysis for determining whether there are substantial and compelling reasons to deviate from the statutory sentencing guidelines, and here the sentencing transcript reveals that the trial court was *not* revisiting that issue, as our Court had previously affirmed the conclusion that there were such reasons in this case. Instead, all the trial court did on remand was what it was required to do by our prior opinion, which was to state why this punishment fit this crime. See *People v Smith*, 482 Mich 292; 754 NW2d 284 (2008). And, we all agree the trial court satisfied this standard.

/s/ Christopher M. Murray