

# Order

Michigan Supreme Court  
Lansing, Michigan

December 13, 2006

Clifford W. Taylor,  
Chief Justice

131942

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: 131942  
COA: 267317  
Wayne CC: 01-003494-01

CAPRESE D. GARDNER,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the July 10, 2006 order of the Court of Appeals is considered. We DIRECT the Wayne County Prosecuting Attorney to answer the application for leave to appeal within 28 days after the date of this order, limited to the issues whether the defendant was improperly sentenced as a third-habitual offender, and if so, whether resentencing is required.

The application for leave to appeal remains pending.

KELLY, J., would remand this case for resentencing.



d1206

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.

December 13, 2006

*Corbin R. Davis*

Clerk