

# Order

Michigan Supreme Court  
Lansing, Michigan

April 11, 2007

131618 & (38) (39)

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

WILLIAM SIM SPENCER,  
Defendant-Appellant.

Clifford W. Taylor,  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

SC: 131618  
COA: 266840  
Oakland CC: 2001-180525-FH

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On order of the Court, the application for leave to appeal the June 22, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Oakland Circuit Court, and we REMAND this case to the trial court for resentencing. Because the defendant's second-degree criminal sexual conduct convictions did not involve sexual penetration, the defendant was improperly assessed 50 points for Offense Variable 13. The correct score for Offense Variable 13 was 25 points. On remand, the trial court shall correct the score on Offense Variable 13 and resentence the defendant within the appropriate statutory sentencing guidelines range, pursuant to the evaluation under *People v Cobbs*, 443 Mich 276 (1993), or permit the defendant to withdraw his plea. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. The motion for stay and motion for miscellaneous relief are DENIED as moot.

We do not retain jurisdiction.



s0404

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.

April 11, 2007

*Corbin R. Davis*

Clerk