

# Order

Michigan Supreme Court  
Lansing, Michigan

July 30, 2007

133058 & (65)

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

GARLAND MALONE, JR.,  
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: 133058  
COA: 264284  
Wayne CC: 05-002229-01

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By order of May 30, 2007, the prosecuting attorney was directed to answer the application for leave to appeal the December 14, 2006 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Wayne Circuit Court, and we REMAND this case to the circuit court for resentencing. The prosecutor has conceded that the parties incorrectly informed the court that the guidelines range for the E-V, third habitual offender, cell of the Class B Offense grid was 99 to 240 months. The correct range is 87 to 217 months. Since the court was misinformed of the correct range, resentencing is required. *People v Francisco*, 474 Mich 82 (2006). In all other respects, leave to appeal is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.



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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.

July 30, 2007

*Corbin R. Davis*

Clerk