

# Order

Michigan Supreme Court  
Lansing, Michigan

June 10, 2009

Marilyn Kelly,  
Chief Justice

138256-7

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 138256-7  
COA: 277212; 277237  
Macomb CC: 2006-003114-FH;  
2006-003117-FC

JOHN DAVID NIEMIEC,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the December 23, 2008 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

KELLY, C.J., would grant leave to appeal for the reasons set forth in her dissenting statement in *People v Xiong*, 483 Mich \_\_\_\_ (Docket No. 135158, order entered April 17, 2009).



p0603

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.

June 10, 2009

*Corbin R. Davis*

Clerk