

Order

Michigan Supreme Court
Lansing, Michigan

October 20, 2010

Marilyn Kelly,
Chief Justice

141344

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 141344
COA: 297511
Lenawee CC: 09-014103-FC

TODD DAVID SPARKS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 14, 2010 order of the Court of Appeals is considered. We DIRECT the Lenawee County Prosecutor, within 28 days after the date of this order, to answer the following questions: (1) where the defendant entered a guilty plea in exchange for the trial court's agreement to sentence him within the guidelines pursuant to *People v Cobbs*, 443 Mich 276, 283 (1993), and the court departed from the applicable guidelines range, is the defendant entitled to withdraw his guilty plea or to resentencing within the applicable guidelines range; (2) because the trial court agreed to sentence the defendant within the sentencing guidelines range, is the defendant entitled to a remand for a determination of whether his sentencing guidelines were accurately scored; and (3) were the defendant's offense variables for his conviction of felon in possession of a firearm inaccurately scored in light of the decision in *People v McGraw*, 484 Mich 120 (2009)?

DAVIS, J., not participating. I recuse myself and am not participating because I was on the Court of Appeals panel in this case. See MCR 2.003(B).

The application for leave to appeal remains pending.



s1013

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.

October 20, 2010

Corbin R. Davis

Clerk