

Order

Michigan Supreme Court
Lansing, Michigan

June 11, 2008

136050

CHRISTA NICOLE KIRBY,
Plaintiff-Appellant,

v

BRIAN JOSEPH VANCE,
Defendant-Appellee.

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: 136050
COA: 278731
Wayne CC Fam Div:
06-625940-DC

On order of the Court, the application for leave to appeal the February 5, 2008 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals. The arbitrator exceeded her authority under the Domestic Relations Arbitration Act, MCL 600.5070 *et seq.*, when she failed to adequately tape record the arbitration proceedings. The circuit court erred when it failed to remedy the arbitrator's error by conducting its own evidentiary hearing; a truly independent review of the arbitrator's findings was not possible in light of the inadequacy of the arbitration record. We REMAND this case to the Wayne Circuit Court for entry of an order vacating the arbitration award and ordering another arbitration before the same arbitrator. Should the parties agree, in lieu of ordering another arbitration, the circuit court may conduct an evidentiary hearing.

CORRIGAN J., would deny leave to appeal.



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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.

June 11, 2008

Corbin R. Davis

Clerk