

Order

Michigan Supreme Court
Lansing, Michigan

June 5, 2013

146776

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

RICHARD DAMIEN OSBORNE,
Defendant-Appellant.

SC: 146776
COA: 307054
Kent CC: 10-010055-FC

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

On order of the Court, the application for leave to appeal the February 14, 2013 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and we REMAND this case to the Court of Appeals for consideration of the merits of the defendant's challenges to Offense Variable (OV) 9, MCL 777.39; OV 11, MCL 777.41; and OV 13, MCL 777.43. The plea hearing transcript shows that the defendant did not agree to a specific minimum-sentence range of 42 to 70 months. Rather, the prosecutor agreed to recommend a sentence within this range. As a result, the defendant did not bind himself to a particular guidelines range as part of his plea agreement and did not waive his challenges to the offense variable scoring.



t0529

I, Larry S. Royster, 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 5, 2013


Clerk