

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 180111

Kent Circuit Court

GREGORY WINES,

LC No. 93-64278-FC

Defendant-Appellant.

AFTER REMAND

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Before: Fitzgerald, P.J., and O'Connell and T.L. Ludington\*, JJ.

FITZGERALD, P.J. (dissenting.)

I respectfully dissent from the majority's conclusion that the error in this case was harmless beyond a reasonable doubt. Alexander's failure to reveal the existence of a plea bargain (which the majority concedes would have damaged or destroyed his credibility at trial) prevented defendant from cross-examining Alexander regarding the plea and deprived defendant of his constitutional right to confrontation. In my opinion, the denial of the opportunity to exercise a right fundamental to our criminal process is so offensive to the maintenance of a sound judicial process that it never can be regarded as harmless. Cf. *People v Robinson*, 386 Mich 551; 194 NW2d 709 (1972); see also *People v Minor*, 213 Mich App 682, 691-693; 541 NW2d 576 (1995) (Fitzgerald, P.J., dissenting). I would reverse and remand for a new trial.

/s/ E. Thomas Fitzgerald

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\* Circuit judge, sitting on the Court of Appeals by assignment.