

Court of Appeals, State of Michigan

ORDER

People of MI v Lloyd West

Docket No. 328687

LC No. 13-009541-FJ

Kirsten Frank Kelly
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens
Judges

The Court orders that the order of August 7, 2015, is VACATED to the extent that it held the matter in abeyance pending receipt of transcripts, which have been received.

The application for leave to appeal is GRANTED. The time for taking further steps in this appeal runs from the date of the Clerk's certification of this order. MCR 7.205(E)(3). This appeal is limited to the issues raised in the application and supporting brief. MCR 7.205(E)(4).

STEPHENS, J., would deny the application and would further direct the trial court to

impanel a jury and hold a sentencing hearing where the prosecution is tasked with proving that the factors in *Miller* [*v Alabama*, 576 US __; 132 S Ct 2455, 2469; 183 L Ed 2d 407 (2012)] support that the juvenile's offense reflects "irreparable corruption" beyond a reasonable doubt. During this hearing, both sides must be afforded the opportunity to present relevant evidence and each victim must be afforded the opportunity to offer testimony in accord with MCL 769.25(8). Following the close of proofs, the trial court should instruct the jury that it must consider, whether in light of the factors set forth in *Miller* and any other relevant evidence, the defendant's offense reflects irreparable corruption beyond a reasonable doubt sufficient to impose a sentence of life without parole. Alternatively, if the jury decides this question in the negative, then the court should use its discretion to sentence the juvenile to a term-of-years in accord with MCL 769.25(9). [*People v Skinner*, __ Mich App __, __; __ NW2d __ (2015).]



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 22 2015

Date


Chief Clerk