

# Court of Appeals, State of Michigan

## ORDER

People of MI v Keith Allen Metzner

Docket No. 340209

LC No. 17-001292-AR

David H. Sawyer  
Presiding Judge

William B. Murphy

Mark T. Boonstra  
Judges

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Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court PEREMPTORILY REVERSES the bench ruling of the Jackson Circuit Court overturning defendant's conviction and remanding for a new trial, and VACATES the September 7, 2017 order effectuating that ruling. Although the record demonstrates that the prosecutor suppressed a recording of the events surrounding defendant's arrest, defendant failed to present evidence establishing that the recording documented information that is favorable to defendant and that was material to his theory of defense. *Brady v Maryland*, 373 US 83; 83 S Ct 1194; 10 L Ed 2d 215 (1963); *People v Chenault*, 495 Mich 142; 845 NW2d 731 (2014). This matter is REMANDED to the Jackson District Court for the purposes of allowing defendant to move for a new trial based on a violation of *Brady* and the trial court to conduct an evidentiary hearing at which the recording shall be admitted into evidence. The trial court shall memorialize its findings of fact and conclusions of law in a written opinion and order. This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.

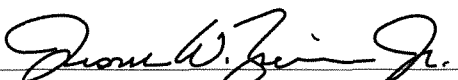
Sawyer, P.J. I agree with the peremptory reversal of the Jackson Circuit Court, but I would remand to the Jackson District Court for entry of an order affirming defendant's conviction.



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

MAR 20 2018

Date

  
Chief Clerk