

Order

Michigan Supreme Court
Lansing, Michigan

May 2, 2016

Robert P. Young, Jr.,
Chief Justice

146030

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 146030
COA: 303201
Lake CC: 86-002451-FC

RICHARD ALLEN SIMMONS,
Defendant-Appellant.

By order of April 28, 2015, the application for leave to appeal the September 13, 2012 judgment of the Court of Appeals was held in abeyance pending the decision in *Montgomery v Louisiana*, cert gtd 575 US ___; 135 S Ct 1546; 191 L Ed 2d 635 (2015). On order of the Court, the case having been decided on January 25, 2016, *Montgomery v Louisiana*, 577 US ___; 136 S Ct 718; 193 L Ed 2d 599 (2016), the application is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Lake Circuit Court on the defendant's first-degree murder conviction, and we REMAND this case to the trial court for resentencing on that conviction pursuant to MCL 769.25 and MCL 769.25a. See *Montgomery v Louisiana*, *supra*; *Miller v Alabama*, 567 US ___; 132 S Ct 2455; 183 L Ed 2d 407 (2012). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We do not retain jurisdiction.



s0418

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.

May 2, 2016


Clerk