

Order

Michigan Supreme Court
Lansing, Michigan

May 2, 2016

Robert P. Young, Jr.,
Chief Justice

150980 & (17)

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: 150980
COA: 323371
Wayne CC: 01-009791-FC

MARIO SMITH,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 11, 2014 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Wayne Circuit Court on the defendant's first-degree murder conviction, and we REMAND this case to the trial court for resentencing pursuant to MCL 769.25 and MCL 769.25a. See *Montgomery v Louisiana*, 577 US ___; 136 S Ct 718; 193 L Ed 2d 599 (2016), and *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. The motion to remand for an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436 (1973), is DENIED.

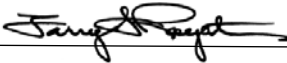
We do not retain jurisdiction.



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