

# Order

Michigan Supreme Court  
Lansing, Michigan

October 12, 2016

Robert P. Young, Jr.,  
Chief Justice

151439

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: 151439  
COA: 318680  
Wayne CC: 13-005130-FC

PHILLIP JOSEPH SWIFT, a/k/a PHILLIP  
JOSEPH SWIFT, JR.,  
Defendant-Appellant.

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By order of April 6, 2016, the prosecuting attorney was directed to answer the application for leave to appeal the February 19, 2015 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other action. MCR 7.305(H)(1). We further ORDER the Wayne Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint attorney Nicholas J. Vendittelli, if feasible, to represent the defendant in this Court. If this appointment is not feasible, the trial court shall, within the same time frame, appoint other counsel to represent the defendant in this Court. The parties shall file supplemental briefs within 42 days of the date of the order appointing counsel, addressing: (1) whether serving the habitual offender notice prior to the defendant's arraignment on the information satisfies the 21-day time requirement under MCL 769.13, and (2) if not, whether the harmless error rules apply to the failure to serve the habitual offender notice within the 21-day time requirement under MCL 769.13. With regard to the latter issue, see *In re Forfeiture of Bail Bond*, 496 Mich 320, 330 (2014); see also MCL 769.26 and MCR 2.613. The parties should not submit mere restatements of their application papers.



s1011

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.

October 12, 2016

  
Clerk