

Order

Michigan Supreme Court
Lansing, Michigan

September 27, 2016

Robert P. Young, Jr.,
Chief Justice

151621 & (58)

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: 151621
COA: 318697
Livingston CC: 13-021225-FC

KEVIN MICHAEL CLARK,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the March 24, 2015 judgment of the Court of Appeals and the motion to remand are considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals, and we REMAND this case to the Livingston Circuit Court to determine whether the court would have imposed a materially different sentence under the sentencing procedure described in *People v Lockridge*, 498 Mich 358 (2015), and to determine whether the post-sentencing amendment to the presentence investigation report would have caused the court to impose a different sentence. With regard to the *Lockridge* issue, the trial court shall follow the procedure described in Part VI of our opinion. If, after taking into account both the unconstitutional constraint on its discretion and the amendment to the presentence investigation report, the trial court determines that it would have imposed the same sentence, it may reaffirm the original sentence. If, however, the trial court determines that it would not have imposed the same sentence, it shall resentence the defendant. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



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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.

September 27, 2016

Clerk