

Order

Michigan Supreme Court
Lansing, Michigan

September 29, 2016

Robert P. Young, Jr.,
Chief Justice

152295 & (16)

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: 152295
COA: 327585
Kent CC: 10-001556-FH

DAVID KEVIN FRANKLIN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the August 5, 2015 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 April 6, 2015 order of the Kent Circuit Court, and we REMAND this case to the trial court for an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436 (1973), for a determination whether the defendant was denied the effective assistance of appellate counsel on direct appeal due to counsel's failure to file an application for leave to appeal on the defendant's behalf and challenge the scoring of Offense Variable 13, MCL 777.43. The motion to remand pursuant to *People v Lockridge*, 498 Mich 358 (2015), is DENIED.

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 29, 2016


Clerk