

Order

Michigan Supreme Court
Lansing, Michigan

May 24, 2016

Robert P. Young, Jr.,
Chief Justice

152354 & (15)(22)(24)

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: 152354
COA: 327566
Ottawa CC: 11-035280-FH

JEFFERY ANDREW ATWOOD, JR.,
Defendant-Appellant.

By order of March 8, 2016, the prosecuting attorney was directed to answer the application for leave to appeal the August 27, 2015 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we GRANT the motions to remand and appoint counsel and VACATE the orders of the Court of Appeals and Ottawa Circuit Court. We REMAND this case to the Ottawa Circuit Court for a hearing pursuant to *United States v Tucker*, 404 US 443; 92 S Ct 589; 30 L Ed 2d 592 (1972), and *People v Moore*, 391 Mich 426 (1974), with regard to the scoring of Prior Offense Variable 5. On a showing of indigency, the trial court shall appoint counsel to assist the defendant. The motion for a declaratory judgment and motion to quash answer are DENIED. 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.

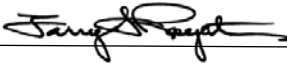
We do not retain jurisdiction.



d0516

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 24, 2016


Clerk