

Order

Michigan Supreme Court
Lansing, Michigan

May 6, 2016

Robert P. Young, Jr.,
Chief Justice

152567

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: 152567
COA: 317527
Oakland CC: 2012-241894-FH

DANIEL HORACEK,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 15, 2015 judgment of the Court of Appeals is considered. We DIRECT the Oakland County Prosecuting Attorney to answer the application for leave to appeal within 28 days after the date of this order. In particular, the prosecutor shall address: (1) what exigencies, if any, existed at the time of the defendant's warrantless arrest, see *People v Oliver*, 417 Mich 366, 384 (1983), citing *United States v Bulman*, 667 F2d 1374, 1384 (CA 11, 1982) ("[T]he exigent circumstances doctrine is applicable only within the narrow range of circumstances that present a real danger to the police or the public or a real danger that evidence or a suspect might be lost."); (2) whether those exigencies justified the defendant's warrantless arrest; (3) whether the defendant's plea in this case was made conditional in light of the tacit consent of the trial court and the prosecutor; (4) whether MCR 6.301(C)(2) fully incorporates the conditional plea procedure in *People v Reid*, 420 Mich 326 (1984), see MCR 6.301, Comments; and (5) if there was a Fourth Amendment violation, whether the defendant is entitled to withdraw his plea.

The application for leave to appeal remains pending.



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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.

May 6, 2016


Clerk