

Order

Michigan Supreme Court
Lansing, Michigan

May 31, 2017

Stephen J. Markman,
Chief Justice

153309

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen
Kurtis T. Wilder,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 153309
COA: 321551
Genesee CC: 13-033003-FC

ANDREW MAURICE RANDOLPH,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 24, 2015 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other action. MCR 7.305(H)(1). The parties shall file supplemental briefs within 42 days of the date of this order addressing: (1) whether a defendant's failure to demonstrate plain error precludes a finding of ineffective assistance of trial counsel; and, in particular, (2) whether the prejudice standard under the third prong of plain error, *People v Carines*, 460 Mich 750, 763-764 (1999) ("affecting substantial rights"), is the same as the *Strickland* prejudice standard, *Strickland v Washington*, 466 US 668, 694 (1984) ("reasonable probability" of a different outcome). See *United States v Dominguez Benitez*, 542 US 74, 83 (2004); *People v Fackelman*, 489 Mich 515, 537 n 16 (2011); *People v Kowalski*, 489 Mich 488, 510 n 38 (2011). The parties should not submit mere restatements of their application papers.



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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 31, 2017


Clerk