

Order

Michigan Supreme Court
Lansing, Michigan

February 3, 2017

Stephen J. Markman,
Chief Justice

153451

Robert P. Young, Jr.
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: 153451
COA: 319980
Jackson CC: 12-004848-FC

MICHAEL PATRICK-MURPHY HAMILTON,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 9, 2016 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE Part III of the Court of Appeals opinion (entitled "EXPERT TESTIMONY"), and we REMAND this case to that court for reconsideration of the defendant's claims regarding the qualification and testimony of Rosemary Heise. The Court of Appeals majority correctly cited *People v Lukity*, 460 Mich 484, 495-496 (1999), for the proposition that a preserved, non-constitutional error is not a ground for reversal unless it is more probable than not that the error was outcome determinative. It erred, however, in determining that because Heise's testimony was arguably cumulative, it was harmless. See *People v Smith*, 456 Mich 543, 555 (1998) ("[T]he fact that [a] statement was cumulative, standing alone, does not automatically result in a finding of harmless error."). On remand, the Court of Appeals shall engage in "an examination of the entire cause," *Lukity*, 460 Mich at 495-496, and reconsider whether it is more probable than not that any error was outcome determinative. 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.

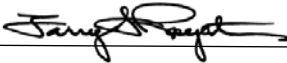
We do not retain jurisdiction.



t0131

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.

February 3, 2017


Clerk