

Order

Michigan Supreme Court
Lansing, Michigan

September 8, 2017

Stephen J. Markman,
Chief Justice

153952

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: 153952
COA: 327971
Kent CC: 14-006374-FC

HORACE DEMARIO COLLINS,
Defendant-Appellant.

On January 24, 2017, the Court ordered oral argument on the application for leave to appeal the August 20, 2015 order of the Court of Appeals. On order of the Court, the application is again considered. Pursuant to MCR 7.305(H)(1) and in light of the prosecutor's concession that the defendant in this case should receive relief under *People v Lockridge*, 498 Mich 358 (2015), we VACATE our order dated January 24, 2017 and, in lieu of granting leave to appeal, we REMAND this case to the Kent Circuit Court for consideration of the defendant's issue regarding the assessment of court costs and to determine whether the court would have imposed a materially different sentence under the sentencing procedure described in *Lockridge*. On remand, the trial court shall follow the procedure described in Part VI of our opinion. If the trial court determines that it would have imposed the same sentence absent the unconstitutional constraint on its discretion, it may reaffirm the original sentence. If, however, the trial court determines that it would not have imposed the same sentence absent the unconstitutional constraint on its discretion, it shall resentence the defendant. 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.



s0905

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 8, 2017

Handwritten signature of Larry S. Royster in black ink.

Clerk