

Order

Michigan Supreme Court
Lansing, Michigan

December 7, 2016

Robert P. Young, Jr.,
Chief Justice

153956

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: 153956
COA: 332331
Wayne CC: 13-010968-FH

MARIO SHANTEZ GOSS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 18, 2016 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the probation revocation and the sentence of the Wayne Circuit Court and we REMAND this case to the trial court for a probation revocation hearing and possible resentencing. See MCL 771.4. Without holding a probation violation hearing as required by MCR 6.445(E), the trial court found that the defendant had violated the terms of his probation. And, while the court did not state the grounds for such a finding, it was made immediately after having sentenced the defendant for his felony murder conviction and associated charges in an unrelated case. However, the murder was committed more than eight months before the defendant was placed on probation for the crime charged in this case. Because MCL 771.3(1)(a) provides that “[d]uring the term of his or her probation, the probationer shall not violate any criminal law of this state . . . ,” the defendant could not have violated the terms of his probation for having committed an act amounting to a violation of a criminal law that preceded the imposition of the order of probation issued in this case.



s1130

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.

December 7, 2016


Clerk