

# Order

Michigan Supreme Court  
Lansing, Michigan

November 1, 2017

Stephen J. Markman,  
Chief Justice

154128

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: 154128  
COA: 311625  
Wayne CC: 99-005393-FC

JUSTLY ERNEST JOHNSON,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the May 31, 2016 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall address: (1) whether the trial court abused its discretion by declining to grant a new trial on grounds of newly discovered evidence, in light of the testimony of Charmous Skinner, Jr., at the post-conviction evidentiary hearing; (2) whether, even if the defendant's previous claims of new evidence are barred under MCR 6.508(D)(2), the evidence on which those claims were based must still be considered in determining if the new evidence from Charmous Skinner, Jr., makes a different result probable on retrial, see *People v Cress*, 468 Mich 678, 692 (2003); and (3) whether trial counsel rendered constitutionally ineffective assistance by failing to interview Charmous Skinner, Jr., or call him as a witness at trial.

We further ORDER that this case be argued and submitted to the Court together with the case of *People v Scott* (Docket No. 154130), at such future session of the Court as both cases are ready for submission. The time allowed for oral argument shall be 20 minutes for each side. MCR 7.314(B)(1).

MCCORMACK, J., not participating because of her prior involvement in this case as counsel for a party.

WILDER, J., not participating because he was on the Court of Appeals panel that decided the defendant's motion for peremptory reversal.



a1025

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.

November 1, 2017

Clerk