

Order

Michigan Supreme Court
Lansing, Michigan

October 24, 2017

Stephen J. Markman,
Chief Justice

154444

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: 154444
COA: 331947
Oakland CC: 2002-187234-FC

TRACY LYNN COWAN,
Defendant-Appellant.

By order of June 23, 2017, the prosecuting attorney was directed to answer the application for leave to appeal the August 3, 2016 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court to conduct an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436 (1973), to determine: (1) whether the defendant's trial counsel was ineffective for failing to call witnesses who may have provided exculpatory information; and (2) whether the defendant is entitled to relief from judgment based on these claims.

We further ORDER the trial court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint counsel to represent the defendant at the evidentiary hearing. In all other respects, leave to appeal is DENIED, because the defendant has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).

We do not retain jurisdiction.



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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.

October 24, 2017

Clerk