

Order

Michigan Supreme Court
Lansing, Michigan

June 27, 2017

Stephen J. Markman,
Chief Justice

154534

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: 154534
COA: 334205
Wayne CC: 16-003006-FH

GARY GILMORE,
Defendant-Appellant.

By order of May 2, 2017, the prosecuting attorney was directed to answer the application for leave to appeal the September 13, 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 Court of Appeals for consideration, as on leave granted, of: (1) whether the defendant waived the question of his entitlement to an evidentiary hearing regarding the amount of restitution; and if not, (2) whether the Wayne Circuit Court erred in denying him such a hearing. See *People v McKinley*, 496 Mich 410 (2014). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We further DIRECT the Court of Appeals to REMAND this case first to the Wayne Circuit Court, in accordance with Administrative Order 2003-03, so that the circuit court can determine whether the defendant is indigent and, if so, to appoint counsel to represent the defendant in the Court of Appeals.

WILDER, J., did not participate because he was on the Court of Appeals panel.



s0619

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.

June 27, 2017

Clerk