

Order

Michigan Supreme Court
Lansing, Michigan

March 30, 2018

Stephen J. Markman,
Chief Justice

155239

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 155239
COA: 332946
Wayne CC: 10-002907-FC

JONATHAN DAVID HEWITT-EL, a/k/a
JONATHAN DAVID HEWITT,
Defendant-Appellant.

On March 7, 2018, the Court heard oral argument on the application for leave to appeal the November 17, 2016 judgment 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 defendant's argument that trial counsel was ineffective for failing to seek suppression of his prior convictions under MRE 609 was not decided against him on direct appeal, we VACATE the Court of Appeals opinion and REMAND this case to that court for reconsideration. On remand, the Court of Appeals shall consider all of the defendant's claims of error in light of the prosecutor's concession and determine whether he is entitled to relief under MCR 6.508(D) under the proper standard, namely reviewing the Wayne Circuit Court's decision to grant the motion for relief from judgment for an abuse of discretion and reviewing its factual findings for clear error. See *People v Swain*, 288 Mich App 609, 628 (2010); *People v McSwain*, 259 Mich App 654, 681 (2003).

The Court of Appeals shall forward its decision on remand to the Clerk of this Court within 60 days of the date of this order.

We 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.

March 30, 2018

Clerk