

Order

Michigan Supreme Court
Lansing, Michigan

December 27, 2017

Stephen J. Markman,
Chief Justice

155487

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: 155487
COA: 336320
Calhoun CC: 2000-002897-FC

RICKY LEE McCLINTON,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the March 1, 2017 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Calhoun Circuit Court for consideration of the defendant's motion for relief from judgment filed on October 14, 2016. The motion for relief from judgment is based in part on an affidavit that was not previously presented to the trial court. Therefore, the motion is not procedurally barred under MCR 6.502(G)(1) because it is "based on . . . a claim of new evidence that was not discovered before the first" motion for relief from judgment. MCR 6.502(G)(2); *People v Swain*, 499 Mich 920 (2016).

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.

December 27, 2017

Clerk