

Order

Michigan Supreme Court
Lansing, Michigan

May 23, 2018

Stephen J. Markman,
Chief Justice

155684

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: 155684
COA: 335745
Alpena CC: 15-006455-FC

WILLIAM LEE ALLEN, JR.,
Defendant-Appellant.

By order of February 20, 2018, the prosecuting attorney was directed to answer the application for leave to appeal the March 8, 2017 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 Alpena Circuit Court for an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436 (1973), to determine: (1) whether the defendant was denied the effective assistance of appellate counsel on direct appeal due to counsel's failure to move for plea withdrawal pursuant to *People v Cole*, 491 Mich 325 (2012); and (2) whether the defendant is entitled to relief from judgment based on this claim. 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.

We do not retain jurisdiction.

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



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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.

May 23, 2018

Clerk