

Order

Michigan Supreme Court
Lansing, Michigan

March 21, 2018

Stephen J. Markman,
Chief Justice

156131 & (37)

DAVID ROYCE,
Plaintiff-Appellee,

v

SUSAN LAPORTE,
Defendant-Appellant.

SC: 156131
COA: 337549
Oakland CC Family Division:
2007-741737-DC

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

By order of October 3, 2017, the application for leave to appeal the April 11, 2017 order of the Court of Appeals was held in abeyance pending the decisions in *Ozimek v Rodgers* (Docket No. 154776) and *Marik v Marik* (Docket No. 154549). On order of the Court, the orders having entered on November 16, 2017, 501 Mich 918-919, 919 (2017), the application is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the order of the Court of Appeals and we REMAND this case to the Court of Appeals for further consideration in light of this Court's November 16, 2017 order in *Marik v Marik*, 501 Mich 918-919 (2017). On remand, we DIRECT the Court of Appeals to issue an opinion specifically addressing the issue whether the order in question may affect the custody of a minor within the meaning of MCR 7.202(6)(a)(iii), or otherwise be appealable by right under MCR 7.203(A). If the Court of Appeals determines that the Oakland Circuit Court Family Division's order is appealable by right, it shall take jurisdiction over the defendant-appellant's claim of appeal and address its merits. If the Court of Appeals determines that the Oakland Circuit Court Family Division's order is not appealable by right, it may then dismiss the defendant-appellant's claim of appeal for lack of jurisdiction, or exercise its discretion to treat the claim of appeal as an application for leave to appeal and grant the application. See *Varran v Granneman (On Remand)*, 312 Mich App 591 (2015), and *Wardell v Hincka*, 297 Mich App 127, 133 n 1 (2012). We direct the Court of Appeals' attention to the fact that we have also remanded the related case of *Royce v Laporte* (Docket No. 156766) to the Court of Appeals and that *Marik v Marik* (Docket No. 155833), and *Madson v Jaso (After Remand)* (Docket No. 154529), have also been remanded to the Court of Appeals for reconsideration. We further note that this Court has opened an administrative file, ADM File No. 2017-20, to consider amending MCR 7.202(6)(a)(iii). The motion to consolidate is DENIED.

We do not retain jurisdiction.



s0314

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 21, 2018

Clerk