

Order

Michigan Supreme Court
Lansing, Michigan

November 21, 2018

Stephen J. Markman,
Chief Justice

156189

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

TRAVIS TRAVON SAMMONS,
Defendant-Appellant.

SC: 156189
COA: 332190
Saginaw CC: 15-041848-FC

By order of April 4, 2018, the prosecuting attorney was directed to answer the application for leave to appeal the July 6, 2017 judgment 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 we direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

We further ORDER the Saginaw Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint attorney Christine DuBois, if feasible, to represent the defendant in this Court. If this appointment is not feasible, the trial court shall, within the same time frame, appoint other counsel to represent the defendant in this Court.

The appellant shall file a supplemental brief within 42 days of the date of the order appointing counsel, addressing whether (1) the show-up identification procedure was impermissibly suggestive, see *People v Kurylczyk*, 443 Mich 289, 303-306 (1993); (2) if so, whether the identification was nonetheless sufficiently reliable so that it was properly admitted, *Perry v New Hampshire*, 565 US 228, 238-239 (2012); and (3) if improperly admitted, whether it is more probable than not that the erroneous admission of the identification through the detective's testimony affected the outcome of the trial. *People v Lukity*, 460 Mich 484, 496 (1999).

In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The

appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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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.

November 21, 2018

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk