

# Order

Michigan Supreme Court  
Lansing, Michigan

January 24, 2018

Stephen J. Markman,  
Chief Justice

156281 & (69)

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-Appellant/Cross-Appellee,

v

SC: 156281  
COA: 331962  
Jackson CC: 14-005198-FJ

RILEY ANDREW SPITLER,  
Defendant-Appellee/Cross-Appellant.

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On order of the Court, the application for leave to appeal the June 20, 2017 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for plenary consideration of the admissibility of each proffered statement under MRE 803(3). See *People v Fisher*, 449 Mich 441 (1995); *People v White*, 401 Mich 482 (1977). Although the Court of Appeals reviewed the admissibility of each proffered statement under MRE 803(1), 803(2) and 803(24), it neglected to consider MRE 803(3), which was the basis argued by the prosecuting attorney in the Court of Appeals for the admission of the testimony of all three witnesses. The application for leave to appeal as cross-appellant is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

We do not retain jurisdiction.



s0117

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.

January 24, 2018

Clerk