

Order

Michigan Supreme Court
Lansing, Michigan

November 27, 2019

Bridget M. McCormack,
Chief Justice

157164

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 157164
COA: 333722
Monroe CC: 15-242179-FC

JERMAINE TERRELL JACKSON,
Defendant-Appellee.

By order of June 20, 2018, the application for leave to appeal the December 12, 2017 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Dixon-Bey* (Docket No. 156746). On order of the Court, leave to appeal having been denied in *Dixon-Bey* on July 29, 2019, 504 Mich ___ (2019), the application is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the Court of Appeals judgment holding that the trial court failed to adequately support its departure sentence, and remanding this case to the trial court for resentencing. The Court of Appeals clearly erred in concluding that the trial court's justifications for the departure were entirely encapsulated by the offense variables. Taken as a whole, the trial court's justifications were addressed not only to the seriousness of the offense, but also to the danger posed by this particular offender, who intentionally and needlessly created an exceptionally dangerous situation and whose criminal behavior was escalating. The Court of Appeals failed to note and account for the trial court's express statement that the departure was a fair and proportionate sentence for the protection of society in these circumstances. The trial court did not abuse its discretion by violating the principle of proportionality when it imposed a modest departure for the reasons provided.



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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 27, 2019

Clerk