

# Order

Michigan Supreme Court  
Lansing, Michigan

December 21, 2018

Stephen J. Markman,  
Chief Justice

158246

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: 158246  
COA: 342377  
Wayne CC: 14-007125-FC

ANTONIO EMMELL MATTHEWS,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the July 5, 2018 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Wayne Circuit Court for the appointment of substitute appellate counsel, in light of *Halbert v Michigan*, 545 US 605 (2005). Even though defendant's original appellate counsel represented in his motion to vacate the order appointing him that there were no valid grounds for withdrawal of defendant's plea, he did not accompany this motion with a brief "referring to anything in the record that might arguably support the appeal," there is no evidence that defendant was served with counsel's motion and given time "to raise any points that he chooses," and the trial court did not make a finding that the appeal was "wholly frivolous." *Anders v California*, 386 US 738, 744 (1967). On remand, substitute appellate counsel, once appointed, may file an application for leave to appeal in the Court of Appeals for consideration under the standard for direct appeals, and/or any appropriate post-conviction motions in the circuit court, within six months of the date of the circuit court's order appointing counsel. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We do not retain jurisdiction.



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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.

December 21, 2018

Clerk