

Order

Michigan Supreme Court
Lansing, Michigan

December 23, 2019

Bridget M. McCormack,
Chief Justice

159215

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

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

v

SC: 159215
COA: 339020
Monroe CC: 16-243183-FH

SHANE JEREMY HAWKINS,
Defendant-Appellant.

By order of July 29, 2019, the prosecuting attorney was directed to answer Issue II of the application for leave to appeal the January 17, 2019 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE that part of the Court of Appeals judgment addressing whether the defendant established that Detective Boczar's testimony was sufficiently prejudicial to warrant reversal, and we REMAND this case to the Court of Appeals to address the question whether the defendant has established that there is a reasonable probability that, but for defense counsel's failure to object to Detective Boczar's testimony, the outcome of this trial would have been different. *Strickland v Washington*, 466 US 668, 694 (1984). While the Court of Appeals quoted the "reasonable probability" standard for determining prejudice in ineffective assistance of counsel cases, the panel did not clearly apply this standard. Instead, the panel concluded that Detective Boczar's testimony "did not rise to the level of overwhelming the proper evidence." Slip Op, p 8. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



s1218

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 23, 2019

Handwritten signature of Larry S. Royster in black ink.

Clerk