

Order

Michigan Supreme Court
Lansing, Michigan

November 13, 2020

Bridget M. McCormack,
Chief Justice

159433

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: 159433
COA: 341060
Wayne CC: 94-006481-FC

LEANDER KRIEGG FOSTER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 19, 2019 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REMAND this case to the Wayne Circuit Court for further proceedings not inconsistent with this order. The defendant was not required to file a motion for relief from judgment to challenge his sentence for armed robbery, imposed concurrently to his sentence for a first-degree murder committed when he was under the age of 18. See *People v Turner*, 505 Mich 954 (2020) (Docket No. 158068). The trial court had jurisdiction to consider his arguments regarding his armed robbery sentence at the resentencing for first-degree murder held pursuant to MCL 769.25a and *Miller v Alabama*, 567 US 460 (2012). On remand, the trial court shall consider the defendant's arguments regarding the validity of his armed robbery sentence and may exercise its discretion to resentence him for that conviction, in particular "if it finds that the sentence was based on a legal misconception that the defendant was required to serve a mandatory sentence of life without parole on the greater offense." *Turner, supra*.

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.

November 13, 2020

Clerk