

# Order

Michigan Supreme Court  
Lansing, Michigan

September 21, 2011

Robert P. Young, Jr.,  
Chief Justice

143136

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,

v

SC: 143136  
COA: 293629  
Kalamazoo CC: 2008-001640-FH

JEFFREY PAUL GIOGLIO,  
Defendant-Appellee.

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On order of the Court, the application for leave to appeal the April 5, 2011 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals. For the reasons stated in the Court of Appeals dissenting opinion, *United States v Cronin*, 466 US 648; 104 S Ct 2039; 80 L Ed 2d 657 (1984), does not apply to defense counsel's performance in this case. We REMAND this case to the Court of Appeals for consideration of whether defense counsel's performance was ineffective under *Strickland v Washington*, 466 US 668; 104 S Ct 2052; 80 L Ed 2d 674 (1984), and the remaining issue raised by the defendant but not addressed by that court during its initial review of this case.

We do not retain jurisdiction.



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I, Corbin R. Davis, 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.

September 21, 2011

*Corbin R. Davis*

Clerk