

Order

Michigan Supreme Court
Lansing, Michigan

September 6, 2016

152995 (55)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

JUSTIN DUANE HOWARD,
Defendant-Appellant.

SC: 152995
COA: 322868
Calhoun CC: 2012-003518-FC

Robert P. Young, Jr.,
Chief Justice

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

On order of the Court, the motion for reconsideration of this Court's May 24, 2016 order is considered, and it is GRANTED. We VACATE our order dated May 24, 2016. On reconsideration, the application for leave to appeal the November 17, 2015 judgment 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 Calhoun Circuit Court to determine whether the court would have imposed a materially different sentence under the sentencing procedure described in *People v Lockridge*, 498 Mich 358 (2015). On remand, the trial court shall follow the procedure described in Part VI of our opinion. If the trial court determines that it would have imposed the same sentence absent the unconstitutional restraint on its discretion, it may affirm the original sentence. If, however, the trial court determines that it would not have imposed the same sentence absent the unconstitutional restraint on its discretion, it shall resentence the defendant. 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.



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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.

September 6, 2016


Clerk