

Order

Michigan Supreme Court
Lansing, Michigan

September 29, 2016

153866 & (10)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

ERICK MITCHEL BURGESS, a/k/a ERICK
MICHAEL BURGESS,
Defendant-Appellant.

SC: 153866
COA: 331907
Jackson CC: 15-004766-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 immediate consideration is GRANTED. The application for leave to appeal the April 15, 2016 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 Jackson 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 constraint on its discretion, it may reaffirm the original sentence. If, however, the trial court determines that it would not have imposed the same sentence absent the unconstitutional constraint 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 29, 2016


Clerk