

Order

Michigan Supreme Court
Lansing, Michigan

November 3, 2005

Clifford W. Taylor,
Chief Justice

129397

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 129397
COA: 245099
Van Buren CC: 00-011976-FC

JUNIOR FRED BLACKSTON,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the January 18, 2005 judgment of the Court of Appeals is considered, and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals and REMAND this case to that court for reconsideration of the issue whether the trial court's error, if any, in excluding the statements in question was harmless beyond a reasonable doubt. The court should fully evaluate the harmless error question by considering the volume of untainted evidence in support of the jury verdict, not just whether the declarants were effectively impeached with other inconsistent statements at the first trial. If the court concludes that the error was harmless, it should consider defendant's remaining allegations of error.

We do not retain jurisdiction.

CAVANAGH and KELLY, JJ., would deny leave to appeal.



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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.

November 3, 2005

Corbin R. Davis

Clerk