

Order

Michigan Supreme Court
Lansing, Michigan

October 28, 2015

Robert P. Young, Jr.,
Chief Justice

149706

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

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 149706
COA: 321327
Ingham CC: 12-001078-FC

DANTAE MICHAEL BUCKNER,
Defendant-Appellant.

By order of November 25, 2014, the application for leave to appeal the May 27, 2014 order of the Court of Appeals was held in abeyance pending the decision in *People v Lockridge* (Docket No. 149073). On order of the Court, the case having been decided on July 29, 2015, 498 Mich 358 (2015), the application is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Ingham Circuit Court to determine whether the court would have imposed a materially different sentence under the sentencing procedure described in *Lockridge*. In addition, the trial court did not resolve the defendant's challenge at sentencing to certain statements in the Presentence Investigation Report. On remand, the trial court shall follow the procedure described in Part VI of our *Lockridge* opinion. The court shall also determine whether it took the challenged information in the PSIR into account in sentencing and, if so, it shall hear and decide the defendant's challenge to the accuracy of that information. If the trial court determines that it would have imposed the same sentence absent the unconstitutional constraint on its discretion, and that the challenged information in the PSIR is either accurate or did not affect the court's sentence, 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. Likewise, if the court determines that the challenged information in the PSIR is inaccurate, it shall resentence the defendant. If the court determines that the challenged information was either inaccurate or irrelevant to the defendant's sentence, the court shall direct the probation officer to correct or delete the information from the PSIR as required by MCR 6.425(E)(2)(a) and assure that a corrected copy of the report is prepared and transmitted to the Michigan Department of

Corrections per MCR 6.425 and MCL 771.14(6). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We do not retain jurisdiction.



a1019

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.

October 28, 2015


Clerk