

Order

Michigan Supreme Court
Lansing, Michigan

January 15, 2016

150843(41)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant/
Cross-Appellee,

v

PAUL RICHARD HEMINGER,
Defendant-Appellee/
Cross-Appellant.

SC: 150843
COA: 316959
Alger CC: 2011-001973-FH

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

By order of April 28, 2015, the application for leave to appeal as cross-appellant the November 20, 2014 judgment of the Court of Appeals was held in abeyance pending the decisions in *People v Hartwick* (Docket No. 148444) and *People v Tuttle* (Docket No. 148971). On order of the Court, the cases having been decided on July 27, 2015, 498 Mich 192 (2015), the application for leave to appeal as cross-appellant is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we DIRECT the Alger Circuit Court, on retrial, with the input of the prosecutor and the defendant's counsel, to draft an appropriate instruction, to be given by the trial court to the jury orally and in writing, regarding the defendant's § 8 affirmative defense that is consistent with MCL 333.26428 and *People v Hartwick*, 498 Mich 192 (2015), including the applicable burden of proof. In all other respects, leave to appeal as cross-appellant is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. The stay of trial court proceedings, ordered on April 28, 2015, is DISSOLVED.



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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.

January 15, 2016


Clerk