

Order

Michigan Supreme Court
Lansing, Michigan

February 6, 2013

145912 & (62)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

KEITH MOORE,
Defendant-Appellant.

SC: 145912
COA: 303750
Wayne CC: 10-011562-FH

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack,
Justices

On order of the Court, the application for leave to appeal the June 14, 2012 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the Court of Appeals judgment's resolution of the claim of ineffective assistance of counsel advanced in the defendant's Standard 4 brief, and we REMAND this case to the Court of Appeals for reconsideration of that issue. See *Haines v Kerner*, 404 US 519, 520 (1972). In declining to review the defendant's ineffective assistance claims, the Court of Appeals "stress[ed]" that the "defendant made no effort to expand the record by moving to remand or for a new trial or evidentiary hearing below, nor [did] he suggest these remedies on appeal," yet the defendant's Standard 4 brief contained two requests for a remand for an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436 (1973), and the defendant attached to his Standard 4 brief his affidavit, those of the three witnesses whom he contends defense counsel erred in failing to interview or call, and the allegedly deficient warrant affidavit that defense counsel failed to challenge. See *People v Hawkins*, 468 Mich 488, 498-499 (2003). 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. The motion to remand to the trial court is DENIED.

We do not retain jurisdiction.



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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.

February 6, 2013

Corbin R. Davis

Clerk