

Order

Michigan Supreme Court
Lansing, Michigan

June 23, 2021

Bridget M. McCormack,
Chief Justice

161529 & (18)

Brian K. Zahra

David F. Viviano

Richard H. Bernstein

Elizabeth T. Clement

Megan K. Cavanagh

Elizabeth M. Welch,

Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 161529

COA: 352569

Wayne CC: 02-000893-FC

JOHN ANTONIO POOLE,
Defendant-Appellant.

On order of the Court, the motion to hold the application in abeyance is DENIED. The application for leave to appeal the May 1, 2020 order of the Court of Appeals is considered, and it is GRANTED. We ORDER the Wayne Circuit Court to appoint the State Appellate Defender Office to represent the defendant in this Court.

The defendant shall file a supplemental brief within 56 days of the date of the order appointing counsel or by October 25, 2021, whichever is later, with no extensions except upon a showing of good cause. The brief shall address: (1) whether the defendant's successive motion for relief from judgment is "based on a retroactive change in the law," MCR 6.502(G)(2), where the law relied upon does not automatically entitle him to relief; and (2) if so, whether the United States Supreme Court's decisions in *Miller v Alabama*, 567 US 460 (2012), and *Montgomery v Louisiana*, 577 US 190 (2016) should be applied to defendants who are over 17 years old at the time they commit a crime and who are convicted of murder and sentenced to mandatory life without parole, under the Eighth Amendment to the United States Constitution or Const 1963, art 1, § 16, or both. The time for filing the remaining briefs shall be as set forth in MCR 7.312(E). The time allowed for oral argument shall be 20 minutes for each side. MCR 7.314(B)(1).

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

ZAHRA, J., would deny for the reasons stated in *People v Manning*, 506 Mich 1033 (2020) (MARKMAN, J., concurring).



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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.

June 23, 2021

Clerk