

Order

Michigan Supreme Court
Lansing, Michigan

September 18, 2019

Bridget M. McCormack,
Chief Justice

159516 & (73)

David F. Viviano,
Chief Justice Pro Tem

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

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 159516
COA: 343154
Wayne CC: 17-005253-FC

TRESHAUN LEE TERRANCE,
Defendant-Appellee/
Cross-Appellant.

On order of the Court, the application for leave to appeal the March 5, 2019 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered. We direct the Clerk to schedule oral argument on the plaintiff's application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing whether the Court of Appeals erred when it concluded that the jury in the defendant's first trial, when it acquitted him of first- and second-degree murder, necessarily decided an issue of ultimate fact such that the issue-preclusion aspect of the Double Jeopardy Clause bars prosecution for the crime of torture arising out of the same criminal incident. In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

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 issue presented in this case may move the Court for permission to file briefs amicus curiae.

The application for leave to appeal as cross-appellant is DENIED, because we are not persuaded that the additional question presented should be reviewed by this Court.



d0911

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.

September 18, 2019

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk