

Order

Michigan Supreme Court
Lansing, Michigan

May 1, 2020

Bridget M. McCormack,
Chief Justice

160707

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 160707
COA: 336050
Wayne CC: 04-004270-FC

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

GREGORY CARL WASHINGTON,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 17, 2019 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing: (1) whether the trial court's act of resentencing the defendant while an application for leave to appeal was pending in this Court constituted a defect in subject-matter jurisdiction; and (2) if so, whether defects in subject-matter jurisdiction can be challenged in a successive motion for relief from judgment. Compare MCR 6.502(G)(2) (only permitting a second or subsequent motion for relief from judgment if it is based on a retroactive change in the law or on a claim of new evidence) and *In re Ives*, 314 Mich 690, 696 (1946) ("The question of jurisdiction of the subject-matter may be raised at any time."). 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 issues presented in this case may move the Court for permission to file briefs amicus curiae.



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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.

May 1, 2020

Clerk