

# Order

Michigan Supreme Court  
Lansing, Michigan

September 11, 2024

Elizabeth T. Clement,  
Chief Justice

166998

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 166998  
COA: 352596  
Wayne CC: 19-004889-FC

ANTWAN RAVELL FLEMING,  
Defendant-Appellant.

---

On order of the Court, the application for leave to appeal the February 29, 2024 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals and REMAND this case to the Wayne Circuit Court for an evidentiary hearing and decision on whether the defendant was denied the effective assistance of trial counsel. *People v Ginther*, 390 Mich 436 (1973). In so ruling, we intimate no opinion as to whether there was ineffective assistance. Our conclusion is that the Court of Appeals should not have decided that issue without a *Ginther* hearing having been held. Proceedings on remand are limited to whether trial counsel provided the defendant with ineffective assistance by failing to request a voluntary manslaughter instruction. *People v Yeager*, 511 Mich 478 (2023).

We do not retain jurisdiction.

ZAHRA, J., did not participate due to a familial relationship with counsel of record.



b0904

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 11, 2024

Clerk