

# Order

Michigan Supreme Court  
Lansing, Michigan

September 13, 2024

Elizabeth T. Clement,  
Chief Justice

166833 & (77)

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: 166833  
COA: 360589  
Berrien CC: 2020-001099-FC

ALANA GEORGIENNE GONZALEZ,  
Defendant-Appellant.

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On order of the Court, the motion to file *pro per* supplement is GRANTED. The application for leave to appeal the January 18, 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 REVERSE in part and VACATE in part the judgment of the Court of Appeals, VACATE the sentence of the Berrien Circuit Court, and REMAND this case to the trial court for resentencing. As the prosecutor concedes, the court plainly erred by sentencing the defendant based, at least in part, on her refusal to admit guilt and her insistence on proceeding with the trial. “A court cannot base its sentence even in part on a defendant’s refusal to admit guilt.” *People v Yennior*, 399 Mich 892, 892 (1977). “Nor can a defendant be punished for exercising [her] right to trial.” *People v Jackson*, 474 Mich 996, 996 (2006). Therefore, we REVERSE the Court of Appeals’ holding that the trial court did not plainly err by sentencing the defendant based, at least in part, on her refusal to admit guilt and her insistence on proceeding with trial. Further, we VACATE the Court of Appeals’ holdings regarding the scoring of the defendant’s offense variables and the proportionality of her sentence. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



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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.

September 13, 2024

Clerk