

Order

Michigan Supreme Court
Lansing, Michigan

April 24, 2020

Bridget M. McCormack,
Chief Justice

160320

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

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

v

SC: 160320
COA: 323741
Wayne CC: 14-001748-FC

JOHNNY RAY KENNEDY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the August 6, 2019 judgment of the Court of Appeals is considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the Court of Appeals judgment holding that the defendant's constitutional challenge is unpreserved. "The Constitution guarantees a fair trial through the Due Process Clauses, but it defines the basic elements of a fair trial largely through the several provisions of the Sixth Amendment" *Strickland v Washington*, 466 US 668, 684-685 (1984). Because a criminal defendant's interest in expert assistance under *People v Kennedy*, 502 Mich 206, 228 (2018), is grounded in due process, and the defendant's motion for expert assistance in the trial court asked for relief under US Const, Am VI, his due process challenge was preserved. We VACATE the remainder of the Court of Appeals judgment and REMAND this case for reconsideration under the standard for preserved constitutional error. *People v Anderson (After Remand)*, 446 Mich 392, 405-406 (1994).

We do not retain jurisdiction.



a0421

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.

April 24, 2020

Clerk