

Order

Michigan Supreme Court
Lansing, Michigan

October 16, 2020

Bridget M. McCormack,
Chief Justice

162058 & (13)

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: 162058
COA: 354927
Wayne CC: 20-002814-FC

REGINALD LAMARR DAVIS,
Defendant-Appellant.

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the September 25, 2020 order 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 order of the Court of Appeals and we REMAND this case to that court for consideration as on reconsideration granted. The Court of Appeals erred in its analysis of the trial court's order granting the defendant's motion for pretrial release. The trial court acknowledged MCL 765.5, which provides that "[n]o person charged with treason or murder shall be admitted to bail if the proof of his guilt is evident or the presumption great." But the trial court declined to apply this statute based on its conclusion that MCR 6.106(B)(1)(a) gave it the discretion to grant bond regardless of the strength of the prosecution's case. Consequently, it did not determine whether "the proof of his guilt is evident or the presumption great." In the trial court's view, the statute conflicted with the court rule, and the court rule prevailed. This was the pivotal issue on appeal, but the Court of Appeals failed to address it. Instead, the Court of Appeals usurped the trial court's role and made its own determination that "the proof of his guilt is evident or the presumption great." MCL 765.5.

We DIRECT the Court of Appeals to address whether MCL 765.5 conflicts with MCR 6.106(B)(1) and, if it does, whether the statute prevails over the court rule. See, e.g., *People v Watkins*, 491 Mich 450 (2012); *McDougall v Schanz*, 461 Mich 15 (1999). We further DIRECT the Court of Appeals to decide the case on an expedited basis. If the Court of Appeals determines that the statute prevails, then it shall remand the case to the

trial court to assess whether “the proof of [the defendant’s] guilt is evident or the presumption great” for purposes of MCL 765.5. If the Court of Appeals determines that the court rule prevails, then it shall address whether the trial court abused its discretion by granting the defendant’s request for pretrial release. See MCR 6.106(H)(1).

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.

October 16, 2020

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

Clerk