

Order

Michigan Supreme Court
Lansing, Michigan

November 4, 2020

Bridget M. McCormack,
Chief Justice

158455

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: 158455
COA: 336063
Calhoun CC: 2011-003642-FC

LEO DUWAYNE ACKLEY, a/k/a LEO
DUANE ACKLEY, JR., a/k/a LEO
DUWAYNE ACKLEY, II,
Defendant-Appellant.

By order of October 17, 2019, the application for leave to appeal the August 2, 2018 judgment of the Court of Appeals was held in abeyance pending the decision in *People v McFarlane* (Docket No. 158259). On order of the Court, leave to appeal having been denied in *People v McFarlane* on May 15, 2020, 505 Mich 1059 (2020), the application is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE in part the judgment of the Court of Appeals. We REMAND this case to the Court of Appeals for reconsideration of its analysis of the expert testimony presented at trial in light of *McFarlane*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We do not retain jurisdiction.

MARKMAN, J. (*dissenting*). For the reasons given in my concurring statement in *People v McFarlane*, 505 Mich 1059 (2020), I would deny leave to appeal.



p1028

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.

November 4, 2020

Clerk