

# Order

Michigan Supreme Court  
Lansing, Michigan

December 2, 2022

Elizabeth T. Clement,  
Chief Justice

164142

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

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 164142  
COA: 354746  
Shiawassee CC: 1970-003957-FC

DANIEL WHEELER,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the February 24, 2022 judgment of the Court of Appeals is considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE Part V of the judgment of the Court of Appeals, VACATE Part III of the judgment of the Court of Appeals, VACATE the sentence of the Shiawassee Circuit Court, and REMAND this case to the trial court for resentencing. A court may not impose a sentence of life without parole on a defendant who was under 18 years of age at the time of his crime unless the prosecution has overcome its burden to rebut the presumption, by clear and convincing evidence, that life without parole is a disproportionate sentence. *People v Taylor*, 510 Mich \_\_\_\_ (July 28, 2022) (Docket No. 154994). Because the sentencing court in this case was not operating within this framework, the defendant is entitled to resentencing. *Id.* 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.

VIVIANO, J. (*concurring in part and dissenting in part*).

For the reasons stated in my dissent in *People v Taylor*, 510 Mich \_\_\_\_ (2022) (Docket No. 154994), I do not believe there is a presumption that life without parole is a disproportionate sentence or that the prosecution is required to rebut this presumption in order for a court to impose a sentence of life without parole on a defendant who was under the age of 18 at the time of his crime. Therefore, I do not believe defendant is entitled to resentencing. I respectfully dissent from the order reversing in part the Court of Appeals' judgment, vacating defendant's sentence, and remanding for resentencing; I concur in the denial of leave in all other respects.



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.

December 2, 2022

Clerk