

Order

Michigan Supreme Court
Lansing, Michigan

January 31, 2023

Elizabeth T. Clement,
Chief Justice

161126

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: 161126
COA: 344130
Jackson CC: 16-005361-FC

ANTHONY JOSEPH GELIA,
Defendant-Appellant.

By order of July 16, 2021, the application for leave to appeal the January 21, 2020 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Poole* (Docket No. 161529). On order of the Court, the case having been decided on July 28, 2022, 510 Mich ____ (2022), the application is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE Part II.B. of the judgment of the Court of Appeals, and we REMAND this case to the Court of Appeals for reconsideration in light of *People v Parks*, 510 Mich ____ (2022) (Docket No. 162086). 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.

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

I dissent from the part of this Court's order remanding the case for reconsideration in light of *People v Parks*, 510 Mich ____ (2022) (Docket No. 162086), which held that Const 1963, art 1, § 16 bars mandatory life-without-parole sentences for 18-year-old homicide offenders. Because defendant was over the age of 18 at the time he committed first-degree murder, he is not entitled to relief under *Parks*. Therefore, I would deny leave to appeal on all the issues raised in defendant's application.

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

For the reasons stated in Chief Justice CLEMENT's dissent in *People v Parks*, 510 Mich ____ (2022) (Docket No. 162086), I do not believe that a mandatory sentence to life without parole for a defendant who committed first-degree murder when he was over the age of 17 is unconstitutional. Therefore, I would deny leave to appeal on all of the issues raised by defendant.



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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.

January 31, 2023

Clerk