

Order

Michigan Supreme Court
Lansing, Michigan

December 12, 2012

145969

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 145969
COA: 305017
Saginaw CC: 10-034573-FC

DAVARRIO DEONTE WEBB,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the August 16, 2012 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals to the extent that the Court of Appeals vacated the defendant's convictions. We do not disturb the Court of Appeals determination that the lack of an expert witness deprived the defendant of an opportunity to present a defense to the charged crimes, or its ruling that the defendant is entitled to funds to retain a DNA expert. However, the error in denying funds may have been harmless and, at this point in the proceedings, it would be premature to vacate the defendant's convictions before the results of independent DNA testing are known. We REMAND this case to the Saginaw Circuit Court for further proceedings not inconsistent with this order. The trial court shall provide funds sufficient to permit the defendant to obtain independent DNA testing. Testing shall proceed forthwith, and the results shall be provided to both parties as soon as reasonably possible. Within 56 days of receiving the test results, the defendant may seek further relief, if appropriate, in the trial court.

We do not retain jurisdiction.



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I, Corbin R. Davis, 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 12, 2012

Corbin R. Davis

Clerk