

Order

Michigan Supreme Court
Lansing, Michigan

February 6, 2013

Robert P. Young, Jr.,
Chief Justice

145702

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 145702
COA: 301762
Saginaw CC: 03-022744-FC

CHARLES HENRY ARTHUR,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the June 26, 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 REMAND this case to the Saginaw Circuit Court for an evidentiary hearing regarding the decision to keep the defendant in shackles during the trial. We ORDER the trial court to articulate with particularity, on the record, its reasons for requiring the defendant to wear shackles at his jury trial. The court shall receive evidence and make findings of fact regarding: (1) whether the physical restraints were justified under *Deck v Missouri*, 544 US 622; 125 S Ct 2007; 161 L Ed 2d 953 (2005), and (2) whether those restraints were visible to any jurors, either during jury selection or afterward. We DIRECT the trial court to commence the hearing within 35 days of the date of this order. We further ORDER that court to submit a transcript of the hearing, along with its findings of fact and conclusions of law, to the Clerk of this Court within 28 days of the conclusion of the hearing.

We retain jurisdiction.



h0130

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.

February 6, 2013

Corbin R. Davis

Clerk