

Order

Michigan Supreme Court
Lansing, Michigan

June 27, 2025

Megan K. Cavanagh,
Chief Justice

159423

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 159423
COA: 338889
Wayne CC: 16-002600-FC

JAMAR WALKER,
Defendant-Appellee.

By order of March 1, 2024, the application for leave to appeal the February 19, 2019 judgment of the Court of Appeals was held in abeyance pending the decision in *People v McKewen* (Docket No. 158869). On order of the Court, the case having been decided on December 26, 2024, ___ Mich ___ (2024), the application is again considered. Pursuant to MCR 7.305(I)(1), in lieu of granting leave to appeal, we REVERSE that part of the February 19, 2019 judgment of the Court of Appeals that addressed the mutually exclusive verdicts doctrine and REINSTATE the defendant's conviction of felonious assault. In this case, the jury was instructed that to convict the defendant of assault with intent to do great bodily harm it must find that, at the time of the assault, the defendant intended to cause great bodily harm. See M Crim JI 17.7; MCL 750.84. But the jury was not instructed that it must find that the defendant acted without the intent to inflict great bodily harm with respect to felonious assault. See *People v McKewen*, ___ Mich ___, ___ (December 26, 2024); slip op at 7. Regardless of whether this state's jurisprudence recognizes the principle of mutually exclusive verdicts, that issue is not presented here. See *id.*; *People v Davis*, 503 Mich 984, 985 (2019) (*Davis II*). Since, with respect to the felonious-assault conviction, the jury never found that the defendant acted without the intent to cause great bodily harm, a guilty verdict for that offense was not mutually exclusive to the defendant's guilty verdict for assault with intent to do great bodily harm, where the jury affirmatively found that the defendant acted with the intent to do great bodily harm. See *McKewen*, ___ Mich at ___; slip op at 7, citing *Davis II*, 503 Mich at 985. Accordingly, the Court of Appeals erred by relying on the principle of mutually exclusive verdicts to vacate the defendant's felonious-assault conviction. *McKewen*, ___ Mich at ___; slip op at 7.



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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.

June 27, 2025

Clerk