

Order

Michigan Supreme Court
Lansing, Michigan

March 23, 2022

Bridget M. McCormack,
Chief Justice

162743

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

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 162743
COA: 349774
Kent CC: 18-007500-FH
18-007727-FH

MARCUS LAVELL LEWIS,
Defendant-Appellant.

By order of October 1, 2021, the prosecuting attorney was directed to answer the application for leave to appeal the January 21, 2021 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

We further ORDER the Kent Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint the State Appellate Defender's Office, if feasible, to represent the defendant in this Court. If this appointment is not feasible, the trial court shall appoint other counsel to represent the defendant in this Court.

The appellant shall file a supplemental brief within 42 days of the order appointing counsel, or of the ruling that the defendant is not entitled to appointed counsel, addressing: (1) whether the search warrant affidavit established a sufficient nexus between the alleged drug trafficking and defendant's home, see *Illinois v Gates*, 462 US 213, 238 (1983); compare *United States v Brown*, 828 F3d 375 (CA 6, 2016), with *United States v White*, 874 F3d 490 (CA 6, 2017), and *United States v Reed*, 993 F3d 441 (CA 6, 2021); and (2) if not, whether the officers relied on the search warrant in good faith. *People v Goldston*, 470 Mich 523 (2004). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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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.

March 23, 2022

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk