

Order

Michigan Supreme Court
Lansing, Michigan

July 26, 2019

Bridget M. McCormack,
Chief Justice

158195

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 158195
COA: 331986
Berrien CC: 2015-015390-FH

IAN GUNTHER LUCKER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 12, 2018 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals, VACATE the sentence of the Berrien Circuit Court, and REMAND this case to the circuit court for resentencing. The circuit court's finding that the defendant had approximately 38 different convictions in 10 years, a characterization the Court of Appeals seemingly accepted, is not supported by the record. Accordingly, the circuit court sentenced the defendant on the basis of inaccurate information, and resentencing is required. See *People v Francisco*, 474 Mich 82, 89 (2006).

We further order that sentencing proceedings on remand be conducted before a different judge. We do not retain jurisdiction.

MARKMAN, J. Although I concur in the majority's order of remand, I would not order that the sentencing proceedings on remand be conducted before a different judge.



p0723

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.

July 26, 2019

Clerk