

Order

Michigan Supreme Court
Lansing, Michigan

September 8, 2023

Elizabeth T. Clement,
Chief Justice

163379

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

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163379
COA: 357332
Wayne CC: 92-007359-FC

JAMES GREGORY EADS,
Defendant-Appellant.

By order of January 4, 2023, the prosecuting attorney was directed to answer the application for leave to appeal the July 19, 2021 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration as on leave granted. The Court of Appeals shall consider whether the defendant is entitled to relief under *People v Boykin*, 510 Mich 171 (2022), or *People v Stovall*, 510 Mich 301 (2022).

VIVIANO, J., (*dissenting*).

I respectfully dissent from this Court's order remanding to the Court of Appeals for it to consider whether defendant is entitled to relief under *People v Boykin*, 510 Mich 171 (2022), or *People v Stovall*, 510 Mich 301 (2022).

In *Stovall*, the Court held that a sentence to life in prison with the possibility of parole for a defendant who committed second-degree murder as a juvenile is unconstitutional. But defendant in the present case received a term-of-years sentence for his second-degree murder conviction. Furthermore, for the reasons stated in Justice ZAHRA's dissent in *Stovall*, 510 Mich at 362, I do not believe the majority in that case properly applied the test for determining whether a sentence is constitutionally proportionate that this Court established in *People v Lorentzen*, 387 Mich 167 (1972), and *People v Bullock*, 440 Mich 15 (1992). I would not remand this case to the Court of Appeals for it to apply what I believe is a flawed analysis of the *Lorentzen/Bullock* test.

In *Boykin*, the Court held that “trial courts must consider a juvenile defendant’s youth to be a mitigating factor when sentencing [him or her] to term-of-years sentences under MCL 769.25 or MCL 769.25a” but that a court is not required to “articulate on the record how a defendant’s youth affected the decision.” *Boykin*, 510 Mich at 178. However, defendant in the present case was not sentenced under MCL 769.25 or MCL 769.25a, and *Boykin* did not broadly hold that trial courts must consider youth to be a mitigating factor in all sentencing proceedings.

For these reasons, I would deny leave to appeal.

ZAHRA, J., joins the statement of VIVIANO, J.



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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.

September 8, 2023

Handwritten signature of Larry S. Royster in black ink.

Clerk