

Order

Michigan Supreme Court
Lansing, Michigan

January 22, 2016

Robert P. Young, Jr.,
Chief Justice

150857

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 150857
COA: 314579
Ingham CC: 11-000565-FC

YUMAR ANTONIO BURKS,
Defendant-Appellant.

On January 14, 2016, the Court heard oral argument on the application for leave to appeal the December 2, 2014 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.305(H)(1). In lieu of granting leave to appeal, we VACATE that part of the Court of Appeals opinion holding that second-degree child abuse under MCL 750.136b(3)(b) is a necessarily included lesser offense of first-degree child abuse. The Court of Appeals did not need to reach this issue because that instruction was never requested in the trial court. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



s0119

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.

January 22, 2016


Clerk