

Order

Michigan Supreme Court
Lansing, Michigan

February 7, 2020

Bridget M. McCormack,
Chief Justice

160563 & (19)

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: 160563
COA: 350327
Lapeer CC: 19-013490-FH

RICHARD DUANE BROWN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 25, 2019 order 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 June 25, 2019 order of the Lapeer Circuit Court denying the defendant's motion to quash the bindover. MCL 766.12 provides that, at a preliminary examination, "[a]fter the testimony in support of the prosecution has been given, the witnesses for the prisoner, if he have any, *shall* be sworn, examined and cross-examined. . . ." (Emphasis added.) In this case, the district court did not permit the defendant to call witnesses. The district court's decision in this regard fell outside the range of principled outcomes and constituted an abuse of discretion. See *People v Shami*, 501 Mich 243, 250-251 (2018).

We REMAND this case to the 71-A District Court for further proceedings to allow the defendant to call witnesses. The motion to stay trial is GRANTED pending completion of the proceedings ordered on remand.



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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.

February 7, 2020

Clerk