

Order

Michigan Supreme Court
Lansing, Michigan

June 17, 2022

Bridget M. McCormack,
Chief Justice

162615

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: 162615
COA: 345699
Ingham CC: 17-000526-FC

LAWRENCE GERARD NASSAR,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 22, 2020 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

We share the concerns of both the Court of Appeals majority and dissent about the conduct of the sentencing judge in this case¹ and seriously question whether the majority committed error by affirming the trial court's denial of defendant's motion for disqualification and motion for resentencing. Although we consider this case to present a close question, we decline to consider defendant's application any further. First, defendant's claims suffer from preservation problems, and to prove that judicial disqualification is warranted requires defendant to shoulder a heavy burden. *Cain v Mich Dep't of Corrections*, 451 Mich 470, 497 (1996). Second, we conclude that the jurisprudential significance of any holding from this Court would be seriously limited, as the question of this judge's impartiality or bias arises in markedly fact-specific circumstances, involving an unusually high-profile and highly scrutinized case, and a unique sentencing procedure. Third, it is worth noting that the concurrent 40- to 175-year

¹ See *People v Nassar*, unpublished per curiam opinion of the Court of Appeals, issued December 22, 2020 (Docket No. 345699), p 8 (acknowledging that some statements made by the trial judge were “wholly inappropriate” and “erode[d] public confidence in the judiciary and cast[] doubt on whether a defendant’s due process rights were followed”); *id.* (SHAPIRO, J., dissenting) at 1 (concluding that “[t]he process by which this sentence was imposed challenges basic notions of judicial neutrality, due process, the right to counsel, and the use of social media by judges”).

sentences imposed in this case were within the range agreed upon in the parties' plea and sentencing agreement. See *People v Wiley*, 472 Mich 153, 154 (2005).² For these reasons, we decline to expend additional judicial resources and further subject the victims in this case to additional trauma where the questions at hand present nothing more than an academic exercise.

² We also note that defendant was sentenced to a concurrent prison term of 40 to 125 years for similar crimes committed in Eaton County. That sentence is final as defendant's direct appeal has been concluded. *People v Nassar*, 503 Mich 1003 (2019). Before he can begin serving the instant Ingham County sentence and the Eaton County sentence in state prison, defendant must complete three consecutive 20-year sentences in federal prison for convictions related to receiving child pornography, possessing child pornography, and obstructing a federal investigation. *United States v Nassar*, unpublished order of the United States Court of Appeals for the Sixth Circuit, entered August 22, 2018 (Docket No. 17-2490). We do not suggest that this is a legal reason for denying leave to appeal in this case, but when viewed along with the other reasons we have provided, it is a prudential concern that weighs against considering defendant's application for leave any further.



s0614

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.

June 17, 2022

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

Clerk