

IN THE SUPREME COURT, STATE OF WYOMING

2016 WY 88

April Term, A.D. 2016

August 31, 2016

TODD MICHAEL SINDELAR,

**Appellant
(Defendant),**

v.

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

S-16-0119

ORDER REVERSING JUDGMENT AND SENTENCE

[¶1] **This matter** came before the Court upon a “Stipulated Motion to Reverse and Remand,” e-filed herein August 18, 2016. After a careful review of the motion and the file, this Court finds as follows. After a jury trial, Appellant was convicted of one count of second-degree murder. Wyo. Stat. Ann. § 6-2-104. In the stipulated motion, the parties submit that Appellant’s conviction should be reversed because the jury was given a “flight” instruction, contrary to *Hadden v. State*, 2002 WY 41, 42 P.3d 495 (Wyo. 2002). There, this Court wrote:

We will affirm. However, we will also hold that after the publication of this opinion in the advance sheets of Pacific Reporter Third, the giving of a flight instruction in a criminal case will constitute reversible error, though the prosecution may still prove up and argue flight as a circumstance from which guilt may be inferred.

Id., ¶ 2, 42 P.3d at 496. In his brief, Appellant contends his conviction should be reversed based on the quoted precedent. The State of Wyoming agrees. This Court agrees as well. It is, therefore,

[¶2] **ORDERED** that the “Judgment Upon Guilty Verdict of Jury” entered in this matter on December 16, 2015, and the “Sentence” entered on March 11, 2016, be, and hereby are, reversed and vacated. This matter is remanded to the district court for proceedings consistent with this order.

[¶3] **DATED** this 31st day of August, 2016.

BY THE COURT:

/s/

E. JAMES BURKE
Chief Justice