# IN THE MICHIGAN COURT OF APPEALS

## ORDER

Re: **People of MI v David Christopher Dwarzski**
Docket No. **259513**
L.C. No. **03-010685-FH**

E. Thomas Fitzgerald, Judge, acting under MCR 7.211(E)(2), orders:

This cause is REMANDED to the trial court for determination whether to appoint appellate counsel for the defendant-appellee. Matters pertaining to the appointment of an attorney are decided in the trial court. MCR 7.208(G). Counsel shall be appointed to represent the defendant on appeal if counsel was appointed to represent the defendant in the trial court. MCR 6.425(F)(1)(d)(iv). Counsel may be appointed if the defendant was not represented by appointed counsel during the trial court proceedings, if the defendant requests the appointment of counsel on remand and is indigent.

The trial court shall determine whether to appoint counsel for defendant-appellee within 14 days of the Clerk's certification of this order. The trial court shall send a copy of the order deciding whether to appoint counsel for defendant-appellee to the Clerk of this Court within 7 days of the decision.

It is the responsibility of the appointed trial lawyer to inform the defendant of this order and to make an appropriate post-conviction motion to implement the provisions of this order. MCR 6.005(H)(4).

This Court retains jurisdiction.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

January 3, 2005
Date

Sandra Schultz Mengel
Chief Clerk