IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v David Lowery**
Docket No. **265646**
L.C. No. **04-500052**

Michael J. Talbot, Judge, acting under MCR 7.211(E)(2), orders:

This cause is REMANDED to the Wayne Circuit Court for a determination, within 14 days, 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). The court shall determine whether defendant is indigent and whether he wishes appellate counsel to be appointed to represent him in this appeal. If both questions are determined in the affirmative, the court shall appoint appellate counsel for defendant.

The circuit court shall send a copy of the order of appointment to this Court and the prosecuting attorney in this matter, Julie Powell, who in turn shall serve the application upon appointed appellate counsel within seven days and provide this Court with a proof of service. The time for filing an answer to the application shall begin upon service of appointed appellate counsel.

This Court retains jurisdiction.

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

FEB 15 2006
Date

Sandra Schultz Mengel
Chief Clerk