Court of Appeals, State of Michigan

ORDER

Henry William Saad
Presiding Judge

People of MI v Karl Ruffin

Docket No. 267903

Mark J. Cavanagh

LC No. 2005-002535-FH

Pat M. Donofrio
Judges

Pursuant to MCR 7.205(D)(2), the Court orders that the Macomb Circuit Court's December 7, 2005 order and January 9, 2006 opinion and order are REVERSED in part as follows. The December 7, 2005 order and January 9, 2006 opinion and order are REVERSED to the extent they order the Macomb County Prosecutor to petition the Attorney General for the appointment of a special prosecutor to pursue criminal charges in this matter. The circuit court has the constitutional and administrative power to ensure that the lawyers who appear before it, including prosecutors, follow ethical rules regarding conflicts of interest. *Attorney General v PSC*, 243 Mich App 487, 491-492; 625 NW2d 16 (2000). While the circuit court has the power to disqualify the prosecutor based on a conflict of interest, it lacks the power to effectively order the appointment of a special prosecutor since that interferes with the prosecutor's exclusive authority to decide whether to pursue criminal charges. *People v Jones*, 252 Mich App 1, 6; 650 NW2d 717 (2002). We do not address whether the circuit court correctly found a conflict of interest in this matter because that issue was not raised in the prosecutor's application.

In all other respects the application for leave to appeal is DENIED for failure to persuade.

This order is to have immediate effect. MCR 7.215(F)(2).

The Court retains no further jurisdiction.

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

MAR - 3 2006
Date

Sandra Schultz Mengel
Chief Clerk