Court of Appeals, State of Michigan

ORDER

People of MI v Phillip Jon Fahrner

Docket No. 269255

LC No. 05-009872 FH

Peter D. O'Connell
Presiding Judge

Patrick M. Meter

Stephen L. Borrello
Judges

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED, and the matter is remanded to the trial court so that defendant-appellant may file, within 14 days, a motion for new trial based on ineffective assistance of counsel during the course of this criminal case. Even though defendant has presented information that is irrelevant in terms of whether this defendant was denied the effective assistance of counsel, other information has been presented that justify this remand. The trial court shall take special care to insure that the hearing only focuses on whether defendant was denied effective assistance of counsel and not the personal life of trial defense counsel. Trial defense counsel is not on trial.

Appellant is to file with this Court a copy of any motion and any supporting brief filed in the trial court within 14 days of the Clerk's certification of this order. The trial court is to hear and decide the matter within 56 days of the Clerk's certification of this order. Appellant must also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry. The trial court is to make findings of fact and a determination on the record. Defendant is to cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

This Court retains jurisdiction in the cause, and the time for proceeding with the appeal in this Court begins upon issuance of an order in the trial court that finally disposes of the remand proceedings. Nevertheless, the time for proceeding with the appeal begins 14 days from the date of certification of this order if remand pleadings are not filed in the trial court within the 14-day period.

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

FEB 20 2007
Date

Sandra Schultz Mengel
Chief Clerk