Court of Appeals, State of Michigan

ORDER

People of MI v Mario Orozco Briones

Docket No. 273365

LC No. 06-004900-01

Karen M. Fort Hood
Presiding Judge

Helene N. White

Michael J. Talbot
Judges

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED. This matter is REMANDED to the trial court for an evidentiary hearing and a renewed decision whether defendant-appellant was denied the effective assistance of counsel or should otherwise be granted a new trial. In the Court's opinion, effective review of the issues raised in the motion to remand requires further development of the factual record. The proceedings on remand are limited to the issues raised in the motion to remand.

The Court retains jurisdiction and the time for proceeding with the appeal in this Court shall begin to run upon issuance of an order in the trial court that disposes of the post-conviction proceedings. The trial court shall hear and decide the matter within 56 days of the Clerk's certification of this order.

Defendant-appellant shall file with this Court a copy of any motion and supporting brief filed in the trial court within 14 days after the Clerk's certification of this order. Defendant-appellant shall also file with the Clerk of this Court copies of all orders entered on remand and secure the filing of transcripts of any hearings held on remand within 21 days after completion of the proceedings.

Defendant-appellant may file a supplemental brief pertaining to the issues raised on remand within 21 days after entry of the trial court's order deciding the matter or 21 days after the transcript of the hearing is filed, whichever is later. Appellee may file a supplemental brief in response.

The time for proceeding with the appeal shall begin to run 14 days after the date this order is certified if the motion to initiate the post-conviction proceedings is not filed in the trial court within that 14-day period.

Judge Talbot would DENY the motion to remand.

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

OCT 30 2007
Date

Sandra Schultz Mengel
Chief Clerk