Court of Appeals, State of Michigan

ORDER

People of MI v Frank Roy Fabiano Jr

Docket No. 274941

LC No. 2001-410935-FH

Peter D. O'Connell
Presiding Judge

Patrick M. Meter

Stephen L. Borrello
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court orders that the February 1, 2006 circuit court order denying defendant's motion for appointment of counsel is VACATED. We REMAND the matter to the Berrien Circuit Court for a determination of whether defendant is indigent, and if so, for the appointment of appellate counsel. *Halbert v Michigan,* 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005).

We do not retain jurisdiction.

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

FEB 2 6 2007
Date

Sandra Schultz Mengel
Chief Clerk