IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Benjamin Curtis Walburg**
Docket No. **295497**
L.C. No. **09-033711-FH**

Donald S. Owens, Judge, acting under MCR 7.211(E)(2), orders:

This cause is REMANDED to the trial court for a determination 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). If counsel was previously appointed to represent the defendant during the trial court proceedings, counsel shall be appointed to represent the defendant on appeal. MCR 6.425(F)(1). If defendant was not represented by appointed counsel during the trial court proceedings, counsel may be appointed to represent defendant on appeal if the defendant requests the appointment of counsel on remand and is indigent.

The trial court shall determine whether to appoint counsel for defendant-appellee within 14 days of the Clerk's certification of this order. The trial court shall send a copy of the order deciding this issue and naming appointed counsel, if any, to the Clerk of this Court within 7 days of the decision.

If counsel was previously appointed to represent the defendant during the trial court proceedings, it is the responsibility of the appointed trial lawyer to inform the defendant of this order and to make any appropriate post-conviction motion to implement the provisions of this order. MCR 6.005(H)(4).

This Court retains jurisdiction.

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

JAN 14 2010
Date

Sandra Schultz Mengel
Chief Clerk