

# Court of Appeals, State of Michigan

## ORDER

In re Parole of Peter Noel Cushing

Docket No. 300198

LC No. 2010-001100-AP

Henry William Saad  
Presiding Judge

Deborah A. Servitto

Elizabeth L. Gleicher  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2) the July 26, 2010 order, reversing the Parole Board's decision, is VACATED. The Department of Corrections (DOC) determined that defendant's parole eligibility date was September 25, 2009, and the Parole Board considered defendant for parole after that date. It is the DOC's responsibility to "calculate[] the new parole eligibility date of a parolee sentenced to a new term of imprisonment for a felony committed while on parole." *People v Idziak*, 484 Mich 549, 555; 773 NW2d 616 (2009). The parties did not challenge DOC's determination, and there is no evidence that raises a question of its validity.

This matter is REMANDED TO THE TRIAL COURT for consideration of the remaining issues raised by the prosecution on appeal, which appear to focus on whether the Parole Board abused its discretion in granting defendant parole, based on the factors set forth in MCL 791.233(1)(a), (e) and (f).

This Court retains no further jurisdiction.



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

NOV 08 2010

Date

*Sandra Schultz Mengel*  
Chief Clerk