

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Elrick Delmar Cooper**

Docket No. **296677; 303195**

L.C. No. **07-029814-FC**

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

The motion for guidance is GRANTED TO THE EXTENT THAT the appeal in Docket No. 303195 from the January 25, 2011, judgment of sentence following resentencing is DISMISSED as unnecessary and the April 6, 2011, order appointing John W. Ujlaky as substitute counsel is VACATED. Any issues that defendant wishes to raise regarding resentencing are properly before this Court in defendant's appeal of right in Docket No. 296677, defendant having filed a timely post-judgment motion on September 21, 2010, to correct an invalid sentence that the trial court granted resulting in the resentencing on January 24, 2011. MCR 7.205(B)(5).

Defendant-Appellant's appointed counsel Patrick K. Ehlmann shall have 28 days from the date of the Clerk's certification of this order in which he may file a supplemental brief addressing issues regarding resentencing. Attorney Ehlmann is allowed to exercise reasonable professional judgment in selecting what if any issues he wishes to raise regarding resentencing, and is not required to advance every argument urged by the defendant. See *Jones v Barnes*, 463 US 745, 751; 103 S Ct 3308; 77 L Ed 2d 987 (1983); *People v Reed*, 198 Mich App 639, 646-647; 499 NW2d 441 (1993), aff'd 449 Mich 375 (1995). Should attorney Ehlmann choose not to raise issues requested by defendant, defendant may file an in pro per supplemental brief in accordance with Administrative Order 2004-6, Standard 4, within 84 days of appointed counsel's filing of a supplemental brief or within 112 days of the date of the Clerk's certification of this order if appointed counsel declines to file a supplemental brief.

The prosecutor may file a supplemental brief in response to any supplemental brief filed by appointed counsel or by defendant pursuant to Administrative Order 2004-6, Standard 4.


The April 14, 2011, order consolidating these matters is VACATED.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAY 13 2011

Date


Chief Clerk