

Court of Appeals, State of Michigan

ORDER

People of MI v Pavel Kalbass

Docket No. 307099

LC No. 96-009490-01-FH

Cynthia Diane Stephens
Presiding Judge

Kurtis T. Wilder

Kirsten Frank Kelly
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the November 15, 2010, order of the Wayne County Circuit Court is VACATED, and the matter is REMANDED to the trial court for re-examination of its ruling in light of *People v Gomez*, ___ Mich App ___, ___ NW2d ___ (Docket No. 302485, released February 14, 2012), slip opinion, which held that the new rule of criminal procedure announced in *Padilla v Kentucky*, 599 US ___, 130 S Ct 1473; 176 L Ed 2d 284 (2010) has prospective application only. The trial court should also determine whether defendant's successive motion for judgment relief is barred under MCR 6.502(G).

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.

Kelly K F., J., would peremptorily reverse.



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

MAR 23 2012

Date


Chief Clerk