

# Court of Appeals, State of Michigan

## ORDER

People of MI v Dennis Dale Parker

Docket No. 310980

LC No. 08-000649-FC

Jane M. Beckering  
Presiding Judge

Jane E. Markey

Mark T. Boonstra  
Judges

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The Court orders that the Motion to Allow Filing of Defendant's Pro Se Supplemental Brief in Support of Delayed Application for Leave to Appeal is GRANTED, and the supplemental pro se brief received on August 3, 2012 is accepted for filing.

The Court further orders that the delayed application for leave to appeal is GRANTED, limited to the issues raised in the application, supporting brief and supplemental pro se brief, including the issue whether the order of restitution violates public policy where the Presentence Investigation Report references a purported admission by the victim that 90% of the \$64,000 for which he seeks restitution consisted of ill-gotten gains from illegal drug sales. MCR 7.205(D)(4).

The Court further orders, on its own motion and pursuant to MCR 7.216 (A)(5), that this matter is REMANDED to the trial court for an evidentiary hearing and a determination whether defendant-appellant received constitutionally-deficient representation when trial counsel failed to object at sentencing to the amount of restitution ordered for the reasons advanced in the application and supplemental pro se brief. *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1993). The Court retains jurisdiction and the time for proceeding with the appeal and the filing of briefs in this Court shall begin to run upon issuance of an order in the trial court that disposes of the remand proceedings. The parties may include in their respective appellate briefs any issues arising from the proceedings on remand.

Defendant-appellant shall file with this Court a copy of any motion and supporting brief filed in the trial court within 14 days after the Clerk's certification of this order. Defendant-appellant shall also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry. The trial court shall hear and decide the matter within 56 days after the Clerk's certification of this order. The trial court shall make findings of fact and a determination on the record and cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

The time for proceeding with the appeal shall begin to run 14 days after the date this order is certified if the motion to initiate the post-conviction proceedings is not filed in the trial court within that 14-day period.



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

**MAR 20 2013**

Date

  
Chief Clerk