

Court of Appeals, State of Michigan

ORDER

People of MI v Gilbert Lee Poole Jr

Docket No. 315982

LC No. 1989-090203-FC

William B. Murphy, C.J.
Presiding Judge

William C. Whitbeck

Michael J. Talbot
Judges

The motion to allow law student Angela L. Easterday to represent appellant Gilbert Lee Poole Jr. at oral argument in this case, MCR 8.120(D)(3), is GRANTED. Attorney Marla Mitchell-Cichon (P-54259) shall accompany Angela L. Easterday in the courtroom pursuant to MCR 8.120(D)(2)(b)(i), and shall be prepared to present the argument in the event the Court determines that the representation by Angela L. Easterday is professionally inadequate and substantial justice requires suspension of argument by Angela L. Easterday pursuant to MCR 8.120(D)(3).

Additionally, we direct both parties to be prepared to address at oral argument the following issues raised sua sponte by this Court:

1. Did the rules applicable to post-appeal motions seeking relief under MCR 6.501 et seq., apply to appellant's petition to test and search for biological (DNA) evidence, which was filed pursuant to MCL 770.16?
2. If the rules in MCR 6.501 et seq., applied to appellant's petition, was he permitted to pursue the petition in light of the language in MCR 6.502(G) barring successive motions and given a similar petition filed in the circuit court by appellant in 2005, which was denied, with applications for leave to appeal denied in that matter by this Court and the Michigan Supreme Court? See *People v Poole*, 480 Mich 1186 (2008); *People v Poole*, unpublished order of the Court of Appeals, entered October 23, 2007 (Docket No. 276973).
3. If the rules in MCR 6.501 et seq., applied to appellant's petition, could he obtain relief, considering the language in MCR 6.508(D)(2), which precludes relief when a motion alleges grounds for relief that were decided against a party in a prior proceeding brought under MCR 6.501 et seq?
4. Does MCL 770.16, standing alone, permit successive petitions for DNA testing relative to the same evidence?

5. Does the law of the case doctrine have any application, considering the previous proceeding initiated by appellant in 2005 and the denials of leave by this Court and our Supreme Court for failure to establish entitlement to relief under MCR 6.508(D), as well as the denials by this Court and our Supreme Court of motions to remand for DNA testing?



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

AUG - 7 2014

Date


Chief Clerk