

Court of Appeals, State of Michigan

ORDER

People of MI v James Rutherford Mell

Docket No. 316808

LC No. 2013-244740-FC

Kathleen Jansen
Presiding Judge

Mark J. Cavanagh

Henry William Saad
Judges

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is DENIED. Defendant-appellant has failed to support his motion to remand on many of the grounds with affidavits or offers of proof to show how he would further develop the record at an evidentiary hearing. Although defendant-appellant has produced an affidavit from his codefendant, he has not shown that he can overcome the presumption that his attorney chose not to call her as a witness based on reasonable trial strategy, particularly when defendant-appellant concurred with that decision at the time of trial. Defendant-appellant has not shown that his attorney's handling of trial preparations and the presentation of the defense involved unreasonable strategic decisions. Furthermore, claims raised by defendant-appellant regarding his attorney's failure to consult with him regarding the conduct of the trial and the defense's strategy do not appear to prove that counsel was ineffective when counsel had the authority to manage such matters. *People v Carter*, 462 Mich 206, 218-219; 612 NW2d 144 (2000).



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

JUN 18 2014

Date

Chief Clerk