

Court of Appeals, State of Michigan

AMENDED ORDER

People of MI v Malachi Delonte Crenshaw

Docket No. 318495

LC Nos. 13-016324-FC; 13-016325-FC; 13-016326-FC

Peter D. O'Connell
Presiding Judge

Donald S. Owens

Stephen L. Borrello
Judges

The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

BORRELLO, J. I would also deny defendant's application for leave to appeal. I write separately because, in addition to denying defendant's application for leave to appeal, I would find that defendant has filed a vexatious proceeding, contrary to MCR 7.216(C)(1)(a) and (b). As his basis for requesting this Court set aside his plea, defendant affirmatively asserts his innocence. However, defendant fails to cite, and there is no record evidence, that defendant ever asserted his innocence. Rather, the record reveals that defendant was requesting withdrawal of his plea based on his sentence. Additionally, defendant asserts that the trial court erred by not allowing defendant to withdraw his plea. Again, defendant, through his appellate counsel, disregarded the requirements of a fair presentation of the issues to this Court. Prior to sentencing, the trial court specifically inquired of defendant whether he was satisfied with his defense counsel. Defendant replied in the affirmative. Then, through counsel, defendant explicitly waived his right to further contest his plea. *People v Carter*, 462 Mich 206, 215; 612 NW2d 144, reh den 463 Mich 1210 (2000) (waiver is the "intentional relinquishment or abandonment of a known right," and "[o]ne who waives his rights under a rule may not then seek appellate review of a claimed deprivation of those rights, for his waiver has extinguished any error"). Following his affirmative waiver of the request to withdraw his plea, defendant then accepted full responsibility for the crimes to which he pled guilty. Accordingly, I would, pursuant to MCR 7.217(C)(1), fine appellate counsel \$250 for filing a vexatious proceeding in this Court. I would additionally remand the matter to the trial court to conduct a hearing in accordance with MCR 7.216(2) to determine costs incurred by the prosecutor and further damages as necessitated by this vexatious proceeding.



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

JAN 23 2014

Date


Chief Clerk