Court of Appeals, State of Michigan

ORDER

People of MI v Montez Moore

Docket No. 319366

LC No. 99-000610-FC

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

The Court orders that, pursuant to MCR 7.211(C)(4), the motion for peremptory reversal is GRANTED, and the trial court's June 18, 2013 opinion and order, as well as the trial court's November 12, 2013 order that reaffirmed its June 18, 2013 opinion and order, are VACATED. Once the trial court determined that recusal was appropriate because of its prior relationship with trial counsel whom defendant now claimed was ineffective, it should have vacated (rather than reaffirm) its order of June 18, 2013, as the only issue raised in defendant's motion for relief from judgment was whether trial counsel provided constitutionally ineffective assistance. Upon determining that recusal was necessary, the trial court should have only requested that a new judge be assigned to decide the motion, and nothing more. MCR 2.003(D)(4)(a). This case is REMANDED so that a new judge can be assigned to decide defendant's motion for relief from judgment.

It is further ordered that the delayed application for leave to appeal is DENIED as moot.

We do not retain jurisdiction.

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

FEB 12 2014
Date

Chief Clerk