

Court of Appeals, State of Michigan

ORDER

People of the State of Michigan v Billy Melvin Howard

Docket No. 320695

LC No. 13-009560-FC

Patrick M. Meter
Presiding Judge

Mark J. Cavanagh

Kurtis T. Wilder
Judges

The motion for substitution of counsel is GRANTED. Attorney David L. Moffitt shall be substituted in the place of attorney Neil J. Leithauser on behalf of defendant.

The Court orders that the motion to adjourn is GRANTED.

The Court orders that the motion to file a supplemental brief is GRANTED and the supplemental brief filed with the motion is accepted. A responsive brief may be filed within 14 days of the Clerk's certification of this order.

The Court orders that the motion for immediate consideration is GRANTED.

The Court orders that the motion to expand the record is GRANTED.

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED. This matter is REMANDED to the trial court for an evidentiary hearing and decision whether defendant-appellant was denied the effective assistance of counsel. *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1993). The proceedings on remand are limited to the issues raised in the motion to remand. The Court retains jurisdiction and the time for proceeding with the appeal in this Court shall begin to run upon issuance of an order in the trial court that disposes of the post-conviction proceedings.

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.

Defendant-appellant may file a supplemental brief pertaining to the issues raised on remand within 21 days after entry of the trial court's order deciding the matter or 21 days after the transcript of the hearing is filed, whichever is later. Appellee may file a supplemental brief in response.

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.

The motion to waive fees is DENIED. Defendant must pay the fees for filing his motions for immediate consideration, for substitute counsel, to expand the record, and to remand for an evidentiary hearing. Defendant shall pay the fees totaling \$500 to the Clerk of this Court within 14 days of the Clerk's certification of this order. See MCL 600.321(1).



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

May 28, 2015

Date

Jerome W. Zimmer Jr.
Chief Clerk