

Court of Appeals, State of Michigan

ORDER

People of MI v Michael Melvin Dean

Docket No. 328705

LC No. 07-002943-FC

Jane M. Beckering
Presiding Judge

David H. Sawyer

Mark T. Boonstra
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court orders that the June 18, 2015 opinion of the Kent Circuit Court is PEREMPTORILY REVERSED, that the June 18, 2015 order is VACATED and that this matter is REMANDED to the trial court for entry of an order denying defendant's motion for relief from judgment. The trial court abused its discretion when it granted defendant's motion for relief from judgment. People v Swain, 288 Mich App 609, 628; 994 NW2d 92 (2010). By tendering an unconditional guilty plea, defendant waived his challenge to the validity of the seizure of the computer and the search of the computer's hard drive, People v Harvey, 203 Mich App 445, 449; 513 NW2d 185 (1994), and his related claim of trial counsel ineffectiveness, People v Vonins (After Remand), 203 Mich App 173, 175-176; 511 NW2d 706 (1993). Any right or issue that is waived is extinguished. People v Carter, 462 Mich 206, 216; 612 NW2d 144 (2000). Appellate counsel did not render ineffective assistance of counsel when counsel failed to raise these extinguished issues on direct appeal. People v Snider, 239 Mich App 393, 425; 608 NW2d 502 (2000). In the absence of the ineffectiveness of counsel, good cause cannot be shown in this case. People v Reed, 449 Mich 375, 378; 535 NW2d 496 (1995). The failure to demonstrate good cause precludes judgment relief. People v Watroba, 193 Mich App 124, 126-127; 483 NW2d 441 (1992).

This order has immediate effect. MCR 7.215(F)(2). We ~~do not retain~~ jurisdiction.



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

OCT 08 2015

Date

Chief Clerk