

Court of Appeals, State of Michigan

ORDER

People of MI v Jonathan David Hewitt-El

Docket No. 330403

LC No. 10-002907-FC

Michael J. Riordan
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

The Court orders that the December 9, 2015 order is VACATED only to the extent that it held the delayed application for leave to appeal in abeyance.

Pursuant to MCR 7.205(E)(2), the Court orders that the trial court's November 3, 2015 order granting defendant's motion for new trial is VACATED and the case is REMANDED to the circuit court for reconsideration of defendant's motion for relief from judgment. Where, as here, a defendant has exhausted his direct appeal, he may seek relief pursuant to subchapter 6.500 of the Michigan Court Rules. This is "the exclusive means to challenge a conviction in Michigan once a defendant has exhausted the normal appellate process." *People v Watroba*, 193 Mich App 124, 126; 483 NW2d 441 (1992). The trial court ruled that defendant was entitled to a new trial on the basis of ineffective assistance of trial counsel. In its November 2015 opinion, the court did not apply the standards for ruling on a motion for relief from judgment under MCR 6.500 *et seq.*

We do not retain jurisdiction.



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

DEC 21 2015

Date

Chief Clerk