

# Court of Appeals, State of Michigan

## ORDER

People of MI v Floyd Ray Pennington

Docket No. 323231

LC No. 14-002915-01-FC

Kurtis T. Wilder  
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

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 to develop the record with respect to defendant-appellant's claim that he was denied the effective assistance of counsel. *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1993). The trial court is directed to reconsider whether defendant-appellant was denied the effective assistance of counsel on the basis of the evidence presented on 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 date this order is entered. 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 date this order is entered. 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's brief on appeal is due in accordance with MCR 7.211(C)(1)(d). The motion to extend time to file appellant's brief is therefore DISMISSED AS MOOT.

The time for proceeding with the appeal shall begin to run 14 days after the date this order is entered if the motion to initiate the post-conviction proceedings is not filed in the trial court within that 14-day period.



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

June 15, 2016  
Date

  
Chief Clerk