

Court of Appeals, State of Michigan

ORDER

People of MI v Tarik Debronte Scott

Docket No. 323886

LC No. 13-004975-FC

Douglas B. Shapiro
Presiding Judge

Peter D. O'Connell

Stephen L. Borrello
Judges

On its own motion, the Court REMANDS this matter to the Jackson Circuit Court. On remand, appellate counsel shall renew defendant-appellant's motion for new trial before the trial court based on the claim of newly discovered exonerating evidence, i.e., the claimed recantation of Warnaja Crider, the principal inculpatory witness, whose preliminary examination testimony was read to the jury when she left the State and refused to appear for trial. On remand, the trial court shall direct that a transcription be made, to the extent that it can be made, of the audio recording purportedly memorializing Crider's recantation. The trial court shall review the transcription, compare it to the audio recording, and make findings on the record or in writing as to whether the recording constitutes newly discovered evidence entitling defendant-appellant to a new trial under the standards announced in *People v Cress*, 468 Mich 678; 664 NW2d 174 (2003). The trial court shall reopen the proofs on the request of either party to allow the admission of evidence relevant to the issue of whether newly discovered evidence exists. The trial court shall also cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings. Following the trial court's ruling on the merits of the renewed motion, the party who obtains the adverse ruling may file a supplemental brief with this Court within 21 days after entry of the trial court's order deciding the matter or within 21 days after the transcript of any hearing is filed, whichever is later. The other party may file a supplemental brief in response within 21 days of service of the brief challenging the ruling on the merits. This order has immediate effect. MCR 7.215(F)(2). The Court retains jurisdiction.

O'Connell, J., dissenting. I would decide this appeal on the basis of the existing record, see MCR 7.210(A), particularly when the issues presented on appeal do not include a claim regarding newly discovered evidence. Additionally, I do not believe that reviewing this appeal on the existing record and the issues as presented would work a manifest injustice. Recantation testimony is traditionally suspect, untrustworthy, and rarely a basis for granting a new trial. See, e.g., *People v Canter*, 197 Mich App 550, 559-560; 496 NW2d 336 (1992); *United States v Provost*, 969 F2d 617, 619 (CA 8, 1992).



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

JAN 26 2016

Date


Chief Clerk