

Court of Appeals, State of Michigan

ORDER

People of MI v Lewis Henry McClaine-Bey

Docket No. 328851

LC No. 88-000054-FY

Michael J. Talbot
Presiding Judge

Kurtis T. Wilder

Michael J. Riordan
Judges

The Court orders that the motion to waive fees is GRANTED and fees are WAIVED for this case only.

The motion to file a late reply brief is GRANTED, and the reply brief filed with the motion is accepted.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(E)(2), that the July 28, 2015 Wayne Circuit Court order denying defendant's motion for reissuance of the judgment pursuant to MCR 6.428 is REVERSED. Contrary to the trial court's order, this Court did not affirm defendant's conviction and sentence as on an appeal of right. This Court merely reviewed the trial court's denial of defendant's motion for relief from judgment, which defendant filed without counsel. The prosecution's argument that this Court's review of the denial of an uncounseled motion for relief from judgment is a basis for denying a motion under MCR 6.428 is not persuasive because the argument is not grounded on the language of the court rule. In this case, as in *People v Tull*, 495 Mich 945-946; 843 NW2d 496 (2014), defendant is entitled to reissuance of the judgment pursuant to MCR 6.428.

This order is to have immediate effect. MCR 7.215(F)(2).

The Court retains no further jurisdiction.



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

MAR 03 2016

Date

Chief Clerk