

Court of Appeals, State of Michigan

ORDER

People of MI v Crystal Louise Rincones

Docket No. 332770

LC No. 14-009592-FH; 14-010795-FH

Mark T. Boonstra
Presiding Judge

Joel P. Hoekstra

Douglas B. Shapiro
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court REMANDS this case to the Kent Circuit Court for the appointment of substitute appellate counsel. The circuit court erred in granting the motion to withdraw without appointing substitute appellate counsel. *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005); *People v DeWeese*, 495 Mich 856; 836 NW2d (2013). As revealed by appellate counsel's September 17, 2015 letter, appellate counsel's decision to withdraw was not predicated on a conclusion that there were no nonfrivolous issues to raise. To the contrary, counsel withdrew her representation because she disagreed with defendant's willingness to accept the risk that a *Crosby* remand procedure under *People v Lockridge*, 498 Mich 358; 870 NW2d 502 (2015), might result in resentencing to a greater sentence. *Lockridge* allows a defendant to accept such a risk and pursue the remand procedure despite the risk. *Id.* at 398. On remand, newly appointed appellate counsel may file an application for leave to appeal or any appropriate postconviction motions or both in the circuit court within 6 months of the date of the circuit court's order appointing counsel. *People v Pipkins*, 476 Mich 851, 851-852; 717 NW2d 873 (2006). This order takes immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

The motion to appoint appellate counsel is DENIED as moot.



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

JUL 28 2016

Date


Chief Clerk