

Court of Appeals, State of Michigan

ORDER

People of MI v Diontee LaQuinn Beavers

Docket No. 330867

LC No. 14-006054-FH

Jane M. Beckering
Presiding Judge

Jane E. Markey

Douglas B. Shapiro
Judges

We remanded this case to the circuit court with direction that it conduct a hearing pursuant to *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973), to determine whether defendant received ineffective assistance of counsel in light of the fact that his trial counsel did not pursue an insanity defense. The trial court conducted a hearing in which defendant's trial counsel was the sole witness, and the court concluded that counsel's decision not to pursue such a defense was a matter of trial strategy. After reviewing the hearing transcript, we agree. In his testimony, trial counsel cogently explained his actions and decision noting the likelihood that a jury would not find defendant not guilty by reason of insanity, the advantage of an intent defense given that it left the burden of proof on the prosecution, and defendant's and his mother's wishes that he avoid any verdict that would result in confinement. Trial counsel carefully considered the nature of the defense and made a reasonable strategic decision to pursue his client's goal by a different method, which did in fact result in a sentence of probation. Defendant's trial counsel was not constitutionally deficient under *Strickland v Washington*, 466 US 668; 104 S Ct 2052; 80 L Ed 2d 674 (1984). Defendant's conviction is affirmed.

We also affirm the trial court's assessment of \$400 in court costs and \$600 in attorney fees, as the trial court on remand provided a sufficient factual basis to establish the reasonableness of both.

We do not retain jurisdiction.



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

JUL 03 2017

Date

Chief Clerk