

Court of Appeals, State of Michigan

ORDER

People of MI v Brian Joseph Backus

Docket No. 339726

LC No. 16-008412-FC

Peter D. O'Connell
Presiding Judge

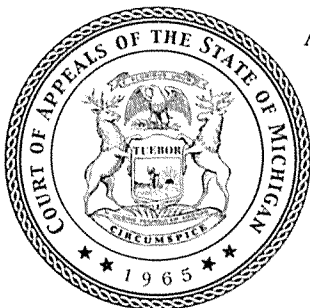
Patrick M. Meter

Stephen L. Borrello
Judges

The motion to amend this Court's February 28, 2018 order or, in the alternative, remand as to a new issue is DENIED. The new issue that defendant seeks to add to the remand proceedings in the trial court is not in the scope of the remand granted by our February 28, 2018 order. Further, defendant did not file a prior motion requesting to expand the scope of the remand. Rather, defendant's motion filed on June 20, 2018, only requested this Court to accept a supplemental brief, with that motion being granted as an administrative motion in this Court's July 10, 2018 order. The mere reference in that motion to the ability to litigate an issue during the remand proceedings could not reasonably be considered a request for this Court to expand the scope of the remand proceedings or, in the context of deciding that administrative motion to file a supplemental brief in this Court, even consider the scope of the remand proceedings previously ordered by this panel.

This order is without prejudice to the ability of defendant to file a properly supported motion to remand as to the new issue under MCR 7.211(C)(1), with a showing of good cause for failing to timely seek a remand as to the new issue. See MCR 7.216(B).

We further note that it was quite unreasonable for appellate defense counsel to file and serve this motion with no accompanying motion for immediate consideration where the present motion relates to a hearing scheduled in the trial court for August 1, 2018, but with the filing and service of the present motion on July 23, 2018, an answer was not due until July 30, 2018, and the motion was not eligible for submission for consideration by the Court until July 31, 2018. See MCR 7.211(B)(2)(e) & (D).



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

JUL 31 2018

Date


Chief Clerk