

Court of Appeals, State of Michigan

ORDER

People of MI v Christopher Payne

Docket No. 346518

LC No. 18-005938-01-FC

Christopher M. Murray
Presiding Judge

Michael J. Riordan

Anica Letica
Judges

The Court orders that the motion for immediate consideration is GRANTED.

It is further ordered that, pursuant to MCR 7.205(E)(2), and in lieu of granting leave to appeal, the circuit court's November 26, 2018 order is REVERSED, as the trial court abused its discretion in denying a continuance. Under the facts and positions of the parties, MRPC 3.7 required that the assistant prosecutor be removed from the case, and to require that attorney to continue to handle the case until the time for his testimony was contrary to the rule of professional conduct and was therefore an abuse of discretion. See *People v Everett*, 318 Mich App 511, 516; 899 NW2d 94 (2017). The trial court should allow the prosecutor no less than five (5) business days before continuing the trial. This matter is REMANDED to the trial court for further proceedings not inconsistent with this order.

The motion to waive the transcript production requirement of MCR 7.205(B)(4) is GRANTED.

The motion for stay pending appeal is DENIED as moot.

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

We do not retain jurisdiction.



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

NOV 26 2018

Date


Chief Clerk