

Court of Appeals, State of Michigan

ORDER

People of MI v Arik Jon Chapman

Docket No. 348742

LC No. 2018-023961-FH

Douglas B. Shapiro
Presiding Judge

Jane M. Beckering

James Robert Redford
Judges

The Court orders that the motion to remand is GRANTED. This case is REMANDED to the trial court to allow defendant to file a motion for an evidentiary hearing regarding whether defendant was visibly shackled during his jury trial or otherwise presented to the jury in prison attire. The court shall receive evidence and make findings of fact regarding: (1) whether any physical restraints were justified under *Deck v. Missouri*, 544 US 622, 125 S Ct 2007, 161 L Ed 2d 953 (2005), and (2) whether those restraints were visible to any jurors during trial. If the court concludes that defendant was unjustifiably and visibly restrained during any portion of the trial, the court shall then determine whether the prosecution can demonstrate beyond a reasonable doubt that the error did not contribute to the verdict against defendant. See *People v Davenport*, 488 Mich 1054; 794 NW2d 616 (2011). Proceedings on remand are limited to the issues raised in the motion to remand. This Court retains jurisdiction.

Defendant shall initiate the proceedings on remand within 14 days of the date of this order. The time for further proceedings in this appeal shall begin to run on the issuance of an order in the trial court that concludes the remand proceedings. However, if defendant fails to file a motion to initiate the proceedings within the time provided, the time for further proceedings in this appeal shall begin to run at the conclusion of that 14-day period. Defendant shall file with this Court a copy of any motion and supporting brief filed in the trial court, and defendant shall file a copy of any order entered within 14 days after entry. The trial court shall hear and decide the matter on the record within 56 days of the date of this order. The trial court shall order a transcript of any hearing on remand to be prepared at public expense and filed within 21 days after completion of the proceedings. Defendant may file a supplemental brief addressing the issues raised on remand within 21 days after the later of the entry of the trial court's order or the filing of the transcript. Plaintiff may file a supplemental brief in response.

All the deadlines set forth in this order are subject to the tolling provided for in Michigan Supreme Court's Administrative Order No. 2020—4.

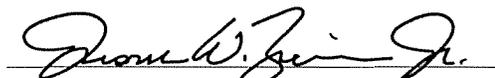

Presiding Judge

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



JUN - 2 2020

Date


Chief Clerk