

# Court of Appeals, State of Michigan

## ORDER

People of MI v Elmore Nichols, Jr

Docket No. 351072

LC No. 12-007351-01-FC

Mark T. Boonstra  
Presiding Judge

Jane M. Beckering

James Robert Redford  
Judges

The Court orders that the motion to waive fees is GRANTED for this case only.

The Court further orders that the motion for leave to file a brief in excess of 50 pages is GRANTED, and the brief received on October 14, 2019 is accepted for filing.

The Court orders that the motion to remand is DENIED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court PEREMPTORILY REVERSES the ruling of the Wayne Circuit Court that appellant's first three claims of trial counsel ineffectiveness are barred by res judicata. That portion of the trial court's September 6, 2019 opinion and order memorializing that ruling is VACATED. The trial court erred when it ruled that res judicata barred consideration of these issues on the merits. Nor is consideration barred by MCR 6.508(D)(2). This matter is REMANDED to the trial court for reconsideration of appellant's first three grounds for relief on their respective merits. In all other regards, the delayed application is DENIED because defendant has failed to establish that the trial court erred in denying the motion for relief from judgment. This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.



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

JAN - 8 2020

Date

*Jerome W. Zimmer Jr.*  
Chief Clerk