Order

June 27, 2017

Stephen J. Markman,
Chief Justice

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen
Kurtis T. Wilder,
Justices

153505

PEOPLE OF THE STATE OF MICHIGAN,
      Plaintiff-Appellee,

v

                                    SC: 153505
                                    COA: 330907
                                    Oakland CC: 2010-232531-FC

EDDIE BROWN,
      Defendant-Appellant.

_____/

      By order of January 31, 2017, the defendant's former appellate counsel was directed to file a supplemental brief. By order of February 17, 2017, the Chief Justice appointed substitute appellate counsel to file a second supplemental brief. On order of the Court, the briefs having been received, the application for leave to appeal the February 24, 2016 order of the Court of Appeals is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court for reissuance of the defendant's judgment of conviction and sentence. It is unclear from the record whether the failure to perfect an appeal of right was solely the fault of the defendant's trial counsel, who promised in open court to file the necessary paperwork to begin the appellate process, but failed to fulfill that promise, see *Roe v Flores-Ortega*, 528 US 470, 477; 120 S Ct 1029; 145 L Ed 2d 985 (2000); *Peguero v United States*, 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999), or whether trial counsel filed the paperwork and the trial court failed to process it. Regardless, it is clear that the failure to perfect an appeal of right is not attributable to the defendant.
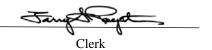
      We further ORDER the Oakland Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint counsel to represent the defendant in the Court of Appeals.

      We do not retain jurisdiction.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 27, 2017

Clerk

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