

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Wendell Alan Racette

Docket No. 314895

LC No. 11-000182-FC

Patrick M. Meter  
Presiding Judge

Peter D. O'Connell

Donald S. Owens  
Judges

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The Court orders that the second supplemental motion for remand is GRANTED IN PART AND DENIED IN PART. The present motion is GRANTED to the extent that defendant shall be allowed, in the current remand proceedings, to create a record as to (1) Dr. Timothy Zwart's findings and the "Pine Rest" records about the complainant's conduct while hospitalized there, and of trial counsel's knowledge as to those findings and records, to the extent those matters are not already contained in the existing record and (2) the alleged newly discovered evidence regarding defendant's allegation against Valorie Shattuck. Defendant may also bring an appropriate motion in the circuit court or otherwise appropriately bring a request for a new trial in the circuit court based on those matters, including a motion for a new trial based on the alleged newly discovered evidence regarding Shattuck, and on the issue of Dr. Stephen Guertin's trial testimony regarding his diagnosis that the complainant was sexually molested. However, the present motion is DENIED to the extent that defendant seeks to be allowed to develop a record as to trial counsel's subjective reasons for his challenged performance at trial because counsel's performance for purposes of an ineffective assistance of counsel claim is assessed under an objective standard of reasonableness. *People v Armstrong*, 490 Mich 281, 289-290; 806 NW2d 676 (2011).



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

FEB 05 2014

\_\_\_\_\_  
Date

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Chief Clerk