

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

*In re* Attorney Fees of MICHAEL A. FARAONE.

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIFFANY LYNN REICHARD,

Defendant,

and

MICHAEL A. FARAONE,

Appellant.

---

UNPUBLISHED

May 20, 2021

No. 354098

Jackson Circuit Court

LC No. 16-005052-FC

Before: SAWYER, P.J., and STEPHENS and RICK, JJ.

PER CURIAM.

Appellant, Michael A. Faraone, was appointed appellate counsel for defendant’s underlying criminal case. Attorney Faraone appeals as of right the trial court’s order denying in part his request for appellate attorney fees. We reverse and remand for the trial court to either award all the requested fees or articulate on the record its basis for concluding that such fees, or any portion of those requested fees, are not reasonable.

Appellant was appointed as appellate counsel to represent defendant, who was charged with open murder with the predicate felony of armed robbery. *People v Reichard*, 323 Mich App 613, 614; 919 NW2d 417 (2018), rev’d 505 Mich 81 (2020). Prior to trial, defendant’s trial counsel brought a motion to present a duress defense. Defense counsel prevailed. The prosecution sought an interlocutory appeal, which this Court granted. This Court held that duress could not be asserted as a defense to felony murder. *Id.* Our Supreme Court reversed this Court’s decision and held that

“duress may be asserted as an affirmative defense to felony murder if it is a defense to the underlying felony.” *People v Reichard*, 505 Mich 81, 96; 949 NW2d 64 (2020).

Appellant filed two bills in the trial court. The first of these pertained to Appellant’s work before this Court and is not subject to the instant appeal. Appellant filed a second and final Michigan Appellate Assigned Counsel System (MAACS) Statement of Service and Order for Payment of Court Appointed Counsel voucher, relative to the work he completed on defendant’s appeal with our Supreme Court. Appellant requested attorney fees in the amount of \$7,675 and out-of-pocket expenses of \$239.46, a total of \$7,914.46. The trial court approved payment of \$5,675 in attorney fees and \$239.46 in expenses, a total of \$5,914.46. The trial court did not explain why it approved payment of \$5,675 in attorney fees or why it denied appellant’s request for the additional \$2,000 in attorney fees. This appeal followed.

“A trial court’s determination regarding the reasonableness of compensation for services and expenses of court-appointed attorneys is reviewed for an abuse of discretion.” *In re Foster Attorney Fees*, 317 Mich App 372, 375; 894 NW2d 718 (2016). “A trial court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes.” *Id.* (cleaned up).

The trial court failed to address the reasonableness of the attorney fees that appellant requested but was not awarded. Therefore, we have no decision to review as to the reasonableness of the fees. As our Supreme Court did in *In re Ujlaky Attorney Fees*, 498 Mich 890, 890 (2015), we reverse the trial court’s order and remand with the instruction that the trial court must either award the requested fees or articulate on the record its basis for concluding that the requested fees are not reasonable. In assessing the reasonableness of the attorney fees requested by appellant, we direct the trial court to consider this Court’s decisions in *In re Mullkoff Attorney Fees*, 176 Mich App 82, 85-88; 438 NW2d 878 (1989), and *In re Jamnik Attorney Fees*, 176 Mich App 827, 831-832; 440 NW2d 112 (1989).

Reversed and remanded for proceedings consistent with this opinion.<sup>1</sup> We do not retain jurisdiction.

/s/ David H. Sawyer  
/s/ Cynthia Diane Stephens  
/s/ Michelle M. Rick

---

<sup>1</sup> In light of this disposition, we decline to address appellant’s unpreserved argument that the reduction in fees violated defendant’s Sixth Amendment right to the effective assistance of counsel. See *Taylor v Auditor General*, 360 Mich 146, 154; 503 NW2d 885 (1960), overruled in part on other grounds by *Parkwood Ltd Dividend Housing Ass’n v State Housing Dev Auth*, 468 Mich 763, 773-774 (2003) (“[F]ew principles of judicial interpretation are more firmly grounded than this: a court does not grapple with a constitutional issue except as a last resort.”)