# Court of Appeals, State of Michigan

## ORDER

People of MI v Kenneth David MacLennan

Docket No. 275208

LC No. 2006-002364-FC

Deborah A. Servitto
Presiding Judge

E. Thomas Fitzgerald

Henry William Saad
Judges

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The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED. The matter is remanded to the trial court for an evidentiary hearing and decision whether defendant-appellant was denied the effective assistance of counsel, *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973), and to allow defendant-appellant to move for resentencing. Proceedings on remand are limited to the issues as raised in the motion to remand.

Within 14 days of the Clerk's certification of this order, defendant-appellant shall file a motion in the trial court to initiate the remand proceedings. **The trial court is to hear and decide the matter within 56 days of the Clerk's certification of this order.**

This Court retains jurisdiction in the cause, and the time for proceeding with the appeal in this Court begins upon issuance of an order in the trial court that finally disposes of the remand proceedings. The time for proceeding with the appeal begins 14 days from the date of certification of this order if the motion to initiate the post-conviction proceedings is not filed in the trial court within the 14-day period.

Defendant-appellant is to file with this Court a copy of any motion filed in the trial court within 14 days of the Clerk's certification of this order. Defendant-appellant must also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry.

The trial court is to make findings of fact and a determination on the record. The trial court is to cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings. Defendant-appellant is responsible for procuring the filing of the transcript of any remand hearing. MCR 7.210(B)(1).

Defendant-appellant may file a supplemental brief pertaining to the issues raised on remand within 21 days after the entry of the trial court's order concluding the remand proceedings or within 21 days of the filing of the transcript of the remand hearing, which ever is later. Appellee may file a supplemental brief in response.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 0 6 2007
Date

Sandra Schultz Mengel
Chief Clerk