

Court of Appeals, State of Michigan

ORDER

People of MI v Ernest Tucker

Docket No. 280165

LC No. 2003-192159-FH

E. Thomas Fitzgerald
Presiding Judge

Mark J. Cavanagh

Pat M. Donofrio
Judges

The motion to waive filing fees is GRANTED, for this case only.

Pursuant to MCR 7.205(D)(2), in lieu of granting defendant's delayed application for leave to appeal, the Court orders that that the circuit court's May 10, 2007, order requiring defendant to reimburse the court for the fees of appointed counsel is VACATED and the matter REMANDED to the circuit court. The circuit court erred in ordering defendant to pay attorney fees without first assessing defendant's current and future ability to pay those fees. *People v Dunbar*, 264 Mich App 240, 255-256; 690 NW2d 476 (2004). On remand, the trial court shall address defendant's current and future financial circumstances and foreseeable ability to reimburse the county for attorney fees before determining whether defendant should pay those fees. At the trial court's discretion, the decision may be made based on the record without the need for a formal evidentiary hearing. *Id.*

This Court retains no further jurisdiction.



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

APR 25 2008

Date

Sandra Schultz Mengel
Chief Clerk