

Court of Appeals, State of Michigan

ORDER

People of MI v Robert Kenneth Becker

Docket No. 285858

LC No. 06-001562-FC

Kirsten Frank Kelly
Presiding Judge

Christopher M. Murray

Karen Fort Hood
Judges

The Court orders that the application for leave to file a delayed appeal is DENIED for lack of merit in the grounds presented.

The motion to disallow the appearance and pleadings filed on behalf of the prosecutor is GRANTED. The appearance and answers filed by Noelle R. Moeggenberg in this Court in this case are STRICKEN. While we find the appointment of Moeggenberg proper under MCL 776.18, that statute applies only to providing assistance at trial, not on appeal. MCL 49.41 permits the prosecuting attorney to appoint an assistant prosecuting attorney with the consent of the circuit judge. MCL 49.42 grants an assistant prosecuting attorney the authority to “perform any and all duties pertaining to the office of prosecuting attorney at such time or times as he may be required to do so by the prosecuting attorney”. However, the petition to appoint Moeggenberg did not cite to these statutory provisions and it is not clear from the record provided to this Court whether the procedural requirements for such an appointment have been met.



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

OCT 30 2008

Date

Sandra Schultz Mengel
Chief Clerk