

Order

Michigan Supreme Court
Lansing, Michigan

May 24, 2016

Robert P. Young, Jr.,
Chief Justice

151897 & (15)

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 151897
COA: 326896
Wayne CC: 13-002760-FC

CHARLES EARL VARNADO, JR.,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 27, 2015 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for reconsideration of the defendant's April 14, 2015 delayed application for leave to appeal under the standard applicable to direct appeals. The defendant's former appellate attorney failed to timely file in the trial court a motion to withdraw as counsel, and failed to file in the Court of Appeals, on direct review, a delayed application for leave to appeal within the deadlines set forth in MCR 7.205(G)(3). Accordingly, the defendant was deprived of his direct appeal as a result of constitutionally ineffective assistance of counsel. See *Roe v Flores-Ortega*, 528 US 470, 477; 120 S Ct 1209; 145 L Ed 2d 985 (2000); *Peguero v United States*, 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999). The motion to remand to the trial court is DENIED.

We do not retain jurisdiction.



a0516

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 24, 2016


Clerk