Court of Appeals, State of Michigan

ORDER

People of MI v Mashariki Jackson

Docket No. 312539

LC No. 12-008291-01-AR

Karen M. Fort Hood
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court further orders that the September 5, 2012, order of the Wayne County Circuit Court is REVERSED. First, the circuit court did not have appellate jurisdiction over defendant's claim of appeal because the district court's oral ruling from the preliminary examination, which has not yet concluded, was never incorporated into a written order and defendant had no right to an appeal as of right, and she could not file a application for leave without entry of a written order. See MCR 7.102(8), 7.103(A) and (B), 7.104(A) and (D)(1), 7.105(A) and (B), and 7.202(6)(b)(i), and MCL 600.8342. See also *Fieger v Cox*, 274 Mich App 449, 460; 734 NW2d 602 (2007) and *People v Turner*, 181 Mich App 680, 683; 449 W2d 680 (1989) (a court speaks through its written orders, not through its oral pronouncements). Second, the circuit court erred in entering an order directing the prosecution to produce the out-of-state witness in person during the preliminary examination, which is scheduled to resume on October 26, 2012. Under MCR 6.006(B), district courts may use two-way interactive video technology to take testimony upon a showing of good cause "from any person at another location." The prosecution provided a "satisfactory" or "sound or valid" "reason," which was to save on the expense for transportation and lodging for the preliminary examination only. See *People v Buie*, 491 Mich 294, 319; 817 NW2d 33 (2012). The district court's ruling that it would allow the testimony from the witness by two-way interactive video, rather than by telephone as requested, did not fall outside the range of principled outcomes. *Id.* at 319-320. Accordingly, this matter is REMANDED to the district court for proceedings consistent with this order.

In light of the peremptory relief, the motion for stay is DENIED as moot. Pursuant to MCR 7.215(F)(2), this order shall take immediate effect and the Court retains no further jurisdiction.

A true copy entered and certified by Larry S. Royster, Chief Clerk, on

OCT 18 2012
Date

Chief Clerk