

Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V MICHAEL DAVID THOMAS

Docket No. 312473

LC No. 2011-008319-FH

Pat M. Donofrio
Presiding Judge

Deborah A. Servitto

Elizabeth L. Gleicher
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.211(C)(1) and MCR 7.216(A)(1) and (7), this Court orders the matter REMANDED to the Kent Circuit Court to appoint substitute counsel to represent defendant-appellant. Counsel must be appointed to represent indigent criminal defendants who are convicted on their pleas and seek “access to first-tier review” by application to this Court. *Halbert v Michigan*, 545 US 605, 609; 125 S Ct 2582; 162 LEd2d 552 (2005). An appointed counsel’s motion to withdraw based on the lack of any genuinely arguable, non-frivolous issues to raise on appeal “must be accompanied by a brief referring to anything in the record that might arguably support the appeal.” *Anders v California*, 386 US 738, 744; 87 S Ct 1396; 18 LEd2d 493 (1967). A copy of that brief must be furnished to the indigent defendant, and the indigent defendant must be given adequate time to raise any points he chooses. Only then may the circuit court “after a full examination of all the proceedings” conclude that a potential appeal is wholly frivolous and discharge appointed counsel without appointing substitute counsel. *Anders*, at 744. The lower court record does not contain a motion to withdraw or a brief in support which complies with *Anders*, nor does it appear that defendant was given the opportunity to raise potential appellate arguments before the circuit court.

The circuit court is directed to appoint substitute counsel to represent defendant on appeal within 21 days from the Clerk’s certification of this order. MCR 7.205(D)(3). Substitute appointed counsel shall have 21 days from the date of appointment to file either an application for leave to appeal with this Court or a properly-supported motion to withdraw pursuant to *Anders, supra*.

A true copy entered and certified by Angela P. DiSessa, Acting Chief Clerk, on



JUN 24 2013

Date

Angela P. DiSessa
Acting Chief Clerk