

## Court of Appeals, State of Michigan

### ORDER

People of MI v Brian Lee Smith

Docket No. 313927

LC No. 12-020048-FC

Patrick M. Meter  
Presiding Judge

Peter D. O'Connell

Donald S. Owens  
Judges

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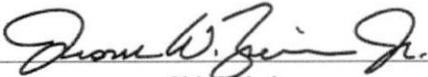
The Court orders that the motion to remand is DENIED. As to the first issue presented in the motion, appellate defense counsel's supposed offer of proof does not constitute an offer of proof "regarding the facts to be established at a hearing" as required by MCR 7.211(C)(1). It is inherent in this requirement that appellant or appellant's counsel make some type of investigation and presentation regarding specific facts to be established on remand, but appellate defense counsel has not done so. Particularly, she provides no indication of having attempted to contact any juror or the retired circuit judge who presided at the trial in this case to investigate the relevant matter before bringing the present motion. As to the second issue in the motion, a remand is DENIED for failure to persuade the Court of the necessity of a remand at this time.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 12 2013

Date

  
Chief Clerk