

Order

Supreme Court
Lansing, Michigan

September 23, 2005

Clifford W. Taylor,
Chief Justice

128340

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 128340
COA: 256534
Kent CC: 01-002731-FC

KENNETH JAY HOULIHAN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 10, 2005 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), we direct the Clerk to schedule oral argument on whether to grant the application or take other peremptory action permitted by MCR 7.302(G)(1). The parties are directed to file supplemental briefs by October 24, 2005, addressing whether the holding in *Halbert v Michigan*, 545 US ___; 125 S Ct 2582; 162 L Ed 2d 552 (2005), retroactively applies to defendant's motion for relief from judgment from his plea-based conviction where the trial court denied his request for the appointment of appellate counsel to assist him in pursuing a direct appeal. In addressing this issue, the parties may benefit from considering *Teague v Lane*, 489 US 288, 356; 109 S Ct 1060; 103 L Ed 2d 334 (1989), *Beard v Banks*, 542 US 406; 124 S Ct 2504; 159 L Ed 2d 494 (2004), and *Howard v United States*, 374 F3d 1068 (CA 11, 2004).

We further order the Kent Circuit Court to appoint the State Appellate Defender Office to represent the defendant in this Court.

The Criminal Defense Attorneys of Michigan and the Prosecuting Attorneys Association of Michigan are invited to file briefs amicus curiae by November 1, 2005.



s0919

I, CORBIN R. DAVIS, 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.

September 23, 2005

Corbin R. Davis

Clerk