

# Order

Michigan Supreme Court  
Lansing, Michigan

November 22, 2010

Marilyn Kelly,  
Chief Justice

141716 & (18)

Michael F. Cavanagh  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway  
Alton Thomas Davis,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 141716  
COA: 298130  
Oakland CC: 2008-222486-FH

GACOLBY TARSHAR MOORE,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the July 13, 2010 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court for the appointment of substitute appellate counsel, in light of *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Based on our review of the record, the Oakland Circuit Court erred in failing to timely appoint appellate counsel. This delay, in turn, led the defendant to seek appellate relief in the Court of Appeals beyond the 12-month deadline in MCR 7.205(F)(3). We further note that on July 14, 2010, the circuit court entered an order granting appointed counsel's motion to withdraw and also granting the appointment of substitute counsel, but there is no indication that substitute counsel was in fact appointed. Once appointed, substitute counsel may file an application for leave to appeal in the Court of Appeals, and/or any appropriate postconviction motions in the trial court, within six months of the date of the circuit court's order appointing counsel. Counsel may include among the issues raised, but is not required to include, the issue raised by the defendant in his application for leave to appeal in this Court. In all other respects, the application for leave to appeal and the motion to remand are DENIED, because we are not persuaded that the questions presented should now be reviewed by this Court.

We do not retain jurisdiction.



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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.

November 22, 2010

*Corbin R. Davis*

Clerk