Court of Appeals, State of Michigan

ORDER

People of MI v Jacob Trakhtenberg

Docket No. 290336

LC No. 2005-203484 FH

Pat M. Donofrio
Presiding Judge

Kathleen Jansen

E. Thomas Fitzgerald
Judges

Pursuant to the Supreme Court's order entered March 31, 2010, this matter is REMANDED to the trial court for an evidentiary hearing and decision as to whether defendant was deprived of his right to the effective assistance of counsel and whether the defendant is entitled to a new trial based on newly discovered evidence. *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1993). The proceedings on remand are limited to these issues.

The trial court shall hear and decide the matter within 42 days after the Clerk's certification of this order. The trial court shall make findings of fact and a determination on the record and cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

As further directed by the Supreme Court, the circuit court shall forward the record and its findings to the Court of Appeals, which "shall then resolve the issues presented by the defendant." Pursuant to MCR 7.211(C)(1)(d), defendant's brief on appeal must be filed within 21 days after the trial court's decision or after the filing of the transcript of any hearing held, whichever is later. The issues argued in the appeal brief shall be limited to the issues raised in the application or arising as a result of the proceedings on remand. MCR 7.205(D)(4). Appellee's brief is due as stated in MCR 7.212(A)(2)(a)(ii).

This Court retains jurisdiction.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 19 2010
Date

Sandra Schultz Mengel
Chief Clerk