Court of Appeals, State of Michigan

ORDER

People of MI v Cliente J Buckner

Docket No. 296399

LC No. 2006-211290-FC

Elizabeth L. Gleicher
Presiding Judge

E. Thomas Fitzgerald

Deborah A. Servitto
Judges

The Court orders that the motion for immediate consideration is GRANTED.

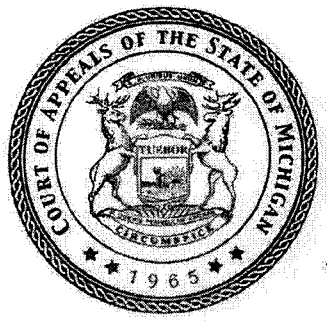
In lieu of granting the application for leave to appeal, pursuant to MCR 7.205(D)(2), this Court VACATES the February 12, 2010 order granting defendant's motion for bond pending appeal, and this matter is REMANDED to the trial court for reconsideration. The trial court erred in granting defendant's motion without making a finding by clear and convincing evidence that "defendant is not likely to pose a danger to other persons" if he is released on bond, as required by MCL 770.9a(2)(a). *People v Sligh*, 431 Mich 673, 681-682; 431 NW2d 395 (1988). Because defendant was convicted of an "assaultive crime" as defined in MCL 770.9a(3), when it reconsiders whether defendant may be released on bond pending appeal, the trial court must examine whether there is clear and convincing evidence establishing that defendant is not likely to pose a danger to others. In the absence of such finding, defendant shall be detained and not released on bail. MCL 770.12(2); MCL 770.9; MCL 770.9a(2)(a). In light of this Court's reversal of defendant's conviction, there exists clear and convincing evidence that the prosecution's application for leave to appeal in our Supreme Court raises a substantial question of law or fact. MCL 770.9a(2)(b).

The motion to waive the requirement of MCR 7.209(A)(3) that defendant first move for stay in the trial court is GRANTED.

The motion for stay pending appeal is DENIED.

This order shall have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



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

FEB 12 2010
Date

Sandra Schultz Mengel
Chief Clerk