

Court of Appeals, State of Michigan

ORDER

People of MI v Federico Luis Cruz

Docket No. 364089

LC No. 96-005857-FC

James Robert Redford
Presiding Judge

Christopher P. Yates

Kathleen A. Feeney
Judges

The motion for immediate consideration is GRANTED.

The application for leave to appeal is DENIED for lack of merit in the grounds presented. Defendant received a sentence of nonparolable life in prison from Kent County Circuit Court Judge Dennis B. Leiber for a murder conviction. Judge Leiber thereafter denied relief from that sentence after a hearing under *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012). After Judge Leiber retired from the bench, and while defendant's case was pending on appeal, the case was reassigned to Kent County Circuit Court Judge Curt A. Benson, who granted defendant's motion for a new *Miller* hearing. That development prompted the dismissal of the pending appeal in light of Judge Benson's order granting a new *Miller* hearing. But before Judge Benson could conduct that hearing, he was reassigned to run the Specialized Business Docket in Kent County. As a result, he was no longer available to conduct a *Miller* hearing.

Kent County Chief Circuit Judge Mark A. Trusock thereafter reassigned defendant's case to his own docket for a *Miller* hearing, even though Kent County Circuit Court Judge Scott A. Noto assumed responsibility for the cases left on Judge Benson's docket. To explain the reassignment of defendant's case, Chief Judge Trusock cited MCR 8.111(C)(1), which provides that "[i]f a judge is disqualified or for other good cause cannot undertake an assigned case, the chief judge may assign it to another judge by a written order stating the reason." Chief Judge Trusock offered the following reasons for reassigning defendant's case to himself: Judge Noto was "a new judge to the criminal arena" who had been working in the family court since he joined the bench. We believe that explanation suffices for purposes of reassignment under MCL 8.111(C)(1). Giving some relief to a judge who is new to a docket in an unfamiliar area of the law is eminently reasonable.

Defendant argues that even if reassignment of his case was permissible under MCR 8.111(C)(1), that rule provides that, "[t]o the extent feasible, the alternate judge should be selected by lot." In explaining the decision to reassign defendant's case to himself, as opposed to reassigning the case by lot, Chief Judge Trusock stated that his criminal docket was the only one in the Kent County Circuit Court that "became up to date" in the wake of the COVID pandemic, which created a substantial backlog of criminal cases to be handled by plea or trial. Again, we find this explanation sufficient to support the

reassignment decision made by Chief Judge Trusock. Reassigning cases among judges to address a substantial backlog is an eminently reasonable approach. Accordingly, we do not believe that MCR 8.111(C)(1) compels a different result.


Presiding Judge



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

February 21, 2023

Date


Chief Clerk