Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V JAMES DAVID SWAZEY

Docket No. 380298

LC No. 92-010368-02-FC

Kathleen A. Feeney
Presiding Judge

Stephen L. Borrello

Sima G. Patel
Judges

The motion for immediate consideration is GRANTED.

The application for leave to appeal is GRANTED. The time for taking further steps in this appeal runs from the date of the Clerk's certification of this order. MCR 7.205(E)(3). Pursuant to MCR 7.205(E)(4), the issues on appeal will *not* be limited to those raised in defendant's application. Instead, in their briefs on appeal, the parties should also address whether the trial court's alleged error in holding defendant's motion for relief from judgment in abeyance pending our Supreme Court's final decision in *People v Eads*, ___ Mich ___; 25 NW3d 118 (2025), might have been harmless because, in light of defendant's guilty plea and any related sentencing agreement, he may have waived any right to raise the instant collateral challenge to his sentence. Cf. *People v Stovall*, 510 Mich 301, 346-347 n 34; 987 NW2d 85 (2022) (ZAHRA, J., dissenting) ("by entering into a valid plea and sentencing agreement, defendant arguably waived his ability to challenge the validity of his sentence . . . ."; *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000) (noting that waiver is generally "defined as the intentional relinquishment or abandonment of a *known* right") (quotation marks and citation omitted; emphasis added).

Because the prosecutor failed to file an answer to the application for leave to appeal, the prosecutor must file an appellee's brief in reply to appellant's brief, either within 56 days of the Clerk's certification of this order as directed in MCR 6.509(D), or within the time stated in MCR 7.212(A)(2)(a), whichever is later.

Kathleen A. Feeney
Presiding Judge

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

June 8, 2026
Date

Jerome W. Zimmer Jr.
Chief Clerk