

MICHIGAN SUPREME COURT

People of Michigan v. Rodolfo Michael Sanchez

No. SC: 160032, Michigan Supreme Court (May 26, 2020)

SUMMARY

Michigan Supreme Court remanded for appointment of substitute appellate counsel after defendant's prior attorneys allowed appellate deadlines to lapse without seeking direct review of plea-based convictions or filing a proper motion to withdraw under **Anders v. California**, 386 U.S. 738 (1967). The court applied **Halbert v. Michigan**, 545 U.S. 605 (2005), which requires counsel for indigent defendants on first-tier appeal following a guilty plea. Substitute counsel may file a delayed application for leave to appeal in the Court of Appeals or post-conviction motions within six months of appointment.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Bridget M. McCormack; David F. Viviano; Stephen J. Markman; Brian K. Zahra; Richard H. Bernstein; Elizabeth T. Clement; Megan K. Cavanagh
JURISDICTION	Michigan
DECIDED	May 26, 2020
DOCKET	SC: 160032
DISPOSITION	remanded
PROCEDURAL POSTURE	Application for leave to appeal from the Court of Appeals
PRECEDENTIAL VALUE	published
PARTIES	Rodolfo Michael Sanchez v. People of the State of Michigan

TOPICS

- criminal procedure
- appellate procedure
- right to counsel
- ineffective assistance
- plea bargaining

PRACTICE AREAS

- Criminal Law
- Appellate Practice

QUESTIONS PRESENTED

1. Whether the defendant is entitled to appointment of substitute appellate counsel due to ineffective assistance of appellate counsel.

HOLDINGS

1. The defendant is entitled to substitute appellate counsel under *Halbert v Michigan* because his previous appellate attorneys allowed the time limits for appellate review to expire without seeking direct review or filing a motion to withdraw that met the requirements of *Anders v California*.

KEY QUOTATIONS

“The defendant’s previous appellate attorneys allowed the time limits for appellate review to expire without seeking direct review of the defendant’s plea-based convictions or, alternatively, filing a motion to withdraw that met the requirements of Anders v California, 386 US 738, 744 (1967).”

“On remand, substitute counsel, once appointed, may file an application for leave to appeal in the Court of Appeals for consideration under the standard for direct appeals, and/or any appropriate post-conviction motions in the circuit court, within six months of the date of the circuit court’s order appointing counsel.”

FACTUAL BACKGROUND

The defendant was convicted on his plea in the Saginaw Circuit Court. His appellate attorneys failed to timely seek direct review or file a proper motion to withdraw the plea. The Michigan Supreme Court remands for appointment of substitute counsel to allow the defendant to pursue appellate remedies.

PROCEDURAL HISTORY

The defendant appealed his plea-based convictions. The Court of Appeals affirmed. The defendant then sought leave to appeal to the Michigan Supreme Court. The Supreme Court remands for appointment of substitute appellate counsel due to ineffective assistance of appellate counsel.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Saginaw Circuit Court shall appoint substitute appellate counsel. Substitute counsel may file an application for leave to appeal in the Court of Appeals or post-conviction motions in the circuit court within six months of the order appointing counsel.

CASES CITED

- *Halbert v Michigan*, 545 US 605 (2005)
- *Anders v California*, 386 US 738 (1967)

OPINION

PER CURIAM.

Order Michigan Supreme Court Lansing, Michigan May 26, 2020 Bridget M. McCormack, Chief Justice 160032 & (40)(41)(42) David F. Viviano, Chief Justice Pro Tem Stephen J. Markman Brian K. Zahra PEOPLE OF THE STATE OF MICHIGAN, Richard H. Bernstein Plaintiff-Appellee, Elizabeth T. Clement Megan K. Cavanagh, Justices v SC: 160032 COA: 343834 Saginaw CC: 16-042629-FH RODOLFO MICHAEL SANCHEZ, Defendant-Appellant.

_____/ On order of the Court, the motion to amend the application is GRANTED.

The application for leave to appeal the June 6, 2019 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Saginaw Circuit Court for the appointment of substitute appellate counsel, in light of Halbert v Michigan, 545 US 605 (2005).

The defendant's previous appellate attorneys allowed the time limits for appellate review to expire without seeking direct review of the defendant's plea-based convictions or, alternatively, filing a motion to withdraw that met the requirements of Anders v California, 386 US 738, 744 (1967).

On remand, substitute counsel, once appointed, may file an application for leave to appeal in the Court of Appeals for consideration under the standard for direct appeals, and/or any appropriate post-conviction motions in the circuit court, within six months of the date of the circuit court's order appointing counsel.

In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. The motions to remand for evidentiary hearings are DENIED. We do not retain jurisdiction. I, Larry S. Royster, 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.

May 26, 2020 a0518 Clerk