Court of Appeals, State of Michigan

ORDER

People of MI v Robert Neal Bisgeier

Docket No. 266882

LC No. 2003-191040-FH

Christopher M. Murray
Presiding Judge

Kathleen Jansen

Pat M. Donofrio
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED for lack of merit. The appellant was required to file the postjudgment motion within the initial, 21-day appellate period to invoke MCR 7.205(F)(3)(b)'s extended filing period. However, there is no dispute that appellant filed his postjudgment motion 343 days after the initial appellate period ended. Additionally, MCR 7.205(F)(3) specifically states "[e]xcept as provided in subrule (F)(4). . . ." By turning to the correct court rule, appellant actually had 211 days from the entry of the June 22, 2005 order denying the timely motion to withdraw the plea to file a timely appeal. MCR 7.204(F)(4). The filing of a second postjudgment motion in the form of the motion for reconsideration, which was filed after the expiration of the 12-month appellate period, did not toll the time that appellant had to file an appeal any further. *People v Rusiecki,* 462 Mich 947, 948; 607 NW2d 357 (2000).

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

MAR 2 3 2006
Date

Sandra Schultz Mengel
Chief Clerk