Court of Appeals, State of Michigan

ORDER

People of MI v Alan Eugene Rhea

Docket No. 275703

LC Nos. 2000-003516-FH; 2001-001413-FH

Deborah A. Servitto
Presiding Judge

E. Thomas Fitzgerald

Henry William Saad
Judges

In lieu of granting the delayed application for leave to appeal, pursuant to MCR 7.205(D)(2), the Court VACATES that portion of defendant's judgment of sentence assessing attorney fees and REMANDS the matter to the Macomb County Circuit Court. The circuit court erred by issuing the April 7, 2006 orders to remit prisoner funds for fines, costs, and assessments without first assessing his ability to pay. *People v Dunbar*, 264 Mich App 240; 690 NW2d 476 (2004). On remand, the circuit court shall address defendant's current and future financial circumstances and foreseeable ability to reimburse the county for court costs and legal fees before determining whether he should pay those costs and fees.

In all other respects the delayed application for leave to appeal is DENIED on its merits.

The motion to waive fees is GRANTED FOR THIS CASE ONLY.

The motion to file a reply is GRANTED.

This Court retains no further jurisdiction.

Judge Saad would grant the delayed application for leave to appeal.

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

AUG - 1 2007
Date

Sandra Schultz Mengel
Chief Clerk