Court of Appeals, State of Michigan

ORDER

People of MI v Mario Timothy Johnson

Docket No. 296045

LC No. 05-012286

Kirsten Frank Kelly
Presiding Judge

Kurtis T. Wilder

Christopher M. Murray
Judges

The Court orders that the motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal the November 13, 2009, order of the Wayne Circuit Court is DISMISSED for lack of jurisdiction. Because defendant previously appealed his conviction as of right and by application, he could seek relief in the circuit court only under the procedures provided by Subchapter 6.500 of the Michigan Court Rules. See MCR 6.429(B)(4). Accordingly, this Court examined defendant's application seeking leave from the circuit court's denial of his motion for a new trial under the standards set forth in MCR 6.508(D). Defendant already has filed a motion for relief from judgment and cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). None of the exceptions found in MCR 6.502(G)(2) are applicable.

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

FEB 12 2010
Date

Sandra Schultz Mengel
Chief Clerk