

# Court of Appeals, State of Michigan

## ORDER

People of MI v Richard Dan Phillips

Docket No. 298779

LC No. 72-002229-FH

Kurtis T. Wilder  
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly  
Judges

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In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the June 11, 2010, order of the Wayne Circuit Court granting defendant's motion for relief from judgment hereby is REVERSED. Assuming without deciding that defendant has established good cause, defendant cannot demonstrate actual prejudice because his claim of ineffective assistance of counsel based on instructional error is wholly without merit. *People v McSwain*, 259 Mich App 654, 688; 676 NW2d 236 (2003); *People v Sawicki*, 4 Mich App 467; 145 NW2d 236 (1966). Defendant failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



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

AUG 30 2010

Date

*Sandra Schultz Mengel*  
Chief Clerk