

Court of Appeals, State of Michigan

ORDER

People of MI v Richard Allen Simmons

Docket No. 303201

LC No. 86-002451-C`

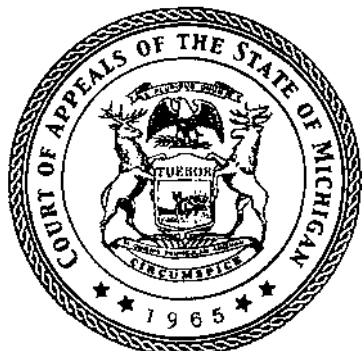
Amy Ronayne Krause
Presiding Judge

Donald S. Owens

Michael J. Kelly
Judges

The Court orders that the motion to dismiss the claim of appeal is DENIED. The February 18, 2011 amended judgment of sentence constitutes a sentence imposed following the granting of a motion for resentencing, MCR 7.202(6)(b)(iii), so as to be appealable of right under MCR 7.203(A)(1). In this regard, an amended judgment of sentence entered following the granting of a motion for relief from judgment seeking entry of an amended judgment of sentence necessarily constitutes a sentence imposed following the granting of a motion for resentencing because entry of a judgment of sentence constitutes imposition of a sentence. *People v Lee*, 489 Mich 289, 298; ___ NW2d ___ (2011). Further, MCR 6.509(A) is inapplicable because appellant is not appealing the granting of his motion for relief from judgment but rather is appealing from the February 18, 2011 amended judgment of sentence entered following the granting of his motion for relief from judgment.

Ronayne Krause, P.J., would grant the motion to dismiss.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

SEP 06 2011

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line. Below the line, the words "Chief Clerk" are printed.

Chief Clerk