

Court of Appeals, State of Michigan

ORDER

John Doe v Renee Boyle

Docket No. 305627

LC No. 07-000906-NO

Donald S. Owens
Presiding Judge

Peter D. O'Connell

Michael J. Kelly
Judges

The Court orders that the motion to dismiss the claim of appeal pursuant to MCR 7.211(C)(2) is GRANTED for the reason that the appeal is not within the Court of Appeals jurisdiction, although not on the grounds argued by plaintiff-appellee or by defendant-appellee Department of Human Services. Rather, assuming that the disposition of this case as to defendant Michael Hand disposed of the last remaining claim in this case, then the final order under MCR 7.202(6)(a)(i) was the July 19, 2011 consent judgment, not the July 22, 2011 order from which appellant has claimed an appeal, because it was the entry of the consent judgment that disposed of the claims in this case as to defendant Hand. Alternatively, if the resolution of the case as to defendant Hand did not resolve the last claim in this case, then neither the July 19, 2011 consent judgment nor the July 22, 2011 order would be a final order under MCR 7.202(6)(a)(i). In either event, the July 22, 2011 order is not a final order appealable of right. MCR 7.203(A). Further, the claim of appeal cannot possibly be saved by treating it as being taken from the July 19, 2011 consent judgment because the claim of appeal was not timely filed from that judgment. MCR 7.204(A)(1)(a). At this time, appellant may seek to appeal in this case only by filing a delayed application for leave to appeal under MCR 7.205(F).

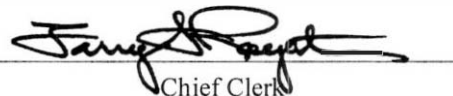
Owens, J., would deny the motion to dismiss.



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

NOV 02 2011

Date


Chief Clerk