

Court of Appeals, State of Michigan

ORDER

Joseph Melville v City of Detroit

Docket No. 311212

LC No. 10-008677-CK

Kirsten Frank Kelly
Presiding Judge

Cynthia Diane Stephens

Michael J. Riordan
Judges

The Court orders that the motion to dismiss is GRANTED, albeit for a reason different from the one argued in the motion. Since the claim of appeal that was submitted for e-filing on July 9, 2012, was not received by the Clerk on July 9, 2012, the claim of appeal cannot be considered "filed" on July 9, 2012. See MCR 7.202(2) and (4). However, since service of the June 18, 2012, order appealed from on appellants' counsel was delayed until July 2, 2012, which is beyond the seven-day period provided in MCR 2.602(D), the claim of appeal filed on July 10, 2012, may be deemed timely filed under MCR 7.204(A)(3).


Nevertheless, in the Court's opinion, the June 18, 2012, order appealed from cannot support an appeal of right because it does not dispose of plaintiff-appellants' claims against defendant Kwame Kilpatrick. The order's declaration that it resolves the last pending claim cannot be accepted as an order that disposes of the claims against Kwame Kilpatrick and the only other provision of the order, the order denying plaintiff-appellants' motion for entry of a default judgment against Kwame Kilpatrick, does not dispose of the claims against Kwame Kilpatrick. The Court orders that the claim of appeal is DISMISSED for lack of jurisdiction because the order appealed from is not a final order as defined in MCR 7.202(6). MCR 7.203(A)(1).



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

SEP 06 2012

Date


Chief Clerk