

# Court of Appeals, State of Michigan

## ORDER

People of MI v Raymond Donnal II

Docket No. 315123

LC No. 10-000494-FC

Donald S. Owens  
Presiding Judge

William C. Whitbeck

Patrick M. Meter  
Judges

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On the Court's own motion, the Clerk's Office shall treat defendant's delayed application for leave to appeal as filed within the deadline set forth in MCR 7.205(F)(3) because appellate counsel's failure to file the delayed application within the deadline constituted ineffective assistance of counsel. *People v Means*, 480 Mich 989 (2007); *People v McCoy*, 480 Mich 989 (2007); *People v Rodgers*, 480 Mich 989 (2007); and *People v Kipfer*, 480 Mich 990 (2007). Contrary to appellate defense counsel's indication, the applicable six-month time limit under MCR 7.205(F)(3) for filing the delayed application for leave to appeal the August 30, 2012 judgment of sentence ended on February 28, 2013. MCR 1.108(3).

We note that we decline to impose costs on appellate defense counsel for the late filing of the delayed application in this circumstance. While we conclude that she should have recognized the existence of MCR 1.108(3), her failure to do so was apparently a good-faith error and her basic approach to calculating the six-month limit could seem plausible to one who failed to recognize the existence of MCR 1.108(3). We caution appellate defense counsel to be cognizant of the provisions of MCR 1.108 for any future filings in this Court.



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

APR 26 2013

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Chief Clerk