

Court of Appeals, State of Michigan

ORDER

People of MI v James Brian Kulfan

Docket No. 319336

LC Nos. 12-004210-FH, 12-002485- FH

E. Thomas Fitzgerald
Presiding Judge

William C. Whitbeck

Patrick M. Meter
Judges

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 the former MCR 7.205(F)(3) (now MCR 7.205(G)(3)) as in force when the judgment of sentence was entered and the delayed application for leave to appeal was filed because, based on the unopposed representations of defense counsel, the late filing of the delayed application is attributable to his ineffective assistance of counsel in having initially erroneously advised defendant that there is a 12-month period for filing a delayed application for leave to appeal. *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).

We note that, under the totality of the circumstances, including defense counsel's forthright admission of responsibility, we refrain from imposing costs on defense counsel for the untimely filing of the delayed application.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JAN 31 2014

Date


Chief Clerk