

# Court of Appeals, State of Michigan

## ORDER

People of MI v Elmer Theron Curry III

Docket No. 324533

LC No. 13-038565-FC

Peter D. O'Connell  
Presiding Judge

Donald S. Owens

Stephen L. Borrello  
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(G)(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). We note that the exception provided by MCR 7.205(G)(4) is inapplicable because the delayed application was not filed within 42 days of the September 16, 2014 filing of the transcript.

Attorney Robert J. Dunn (P33726) shall pay to the Clerk of this Court costs of \$250 within 21 days of the Clerk's certification of this order. This sanction is personal to the attorney and shall not be charged back to the county or the state.



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

MAR 24 2015

Date

Chief Clerk