

Court of Appeals, State of Michigan

ORDER

People of MI v Joseph Alan Lunsford

Docket No. 327464

LC No. 14-002144-FH

Peter D. O'Connell
Presiding Judge

Patrick M. Meter

Michael F. Gadola
Judges

On the Court's own motion, with regard to the November 10, 2014, judgment of sentence, the Clerk's Office shall treat defendant's application for leave to appeal as a delayed application 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 appellate counsel's motion to withdraw is not one of the types of motions specified in MCR 7.205(G)(4) that could potentially extend the time for filing a delayed application beyond the general six-month limit provided by MCR 7.205(G)(3). We also note that the application constitutes a timely application as to the May 4, 2015 order denying counsel's motion to withdraw. MCR 7.205(A)(1).

We do not impose costs on appellate counsel under the circumstances in which the application was filed only a short time after the six-month limit expired as to the judgment of sentence, appellate counsel apparently believed in good faith that the motion to withdraw as counsel filed in the trial court extended the time for filing a delayed application as to the judgment of sentence, and appellate counsel has apparently attempted to diligently represent defendant in difficult circumstances.



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

JUN - 1 2015

Date


Chief Clerk