

Court of Appeals, State of Michigan

ORDER

People of MI v Fredrick Kyle Young

Docket No. 344196

LC No. 14-006130-01-FC

Anica Letica
Presiding Judge

Kirsten Frank Kelly

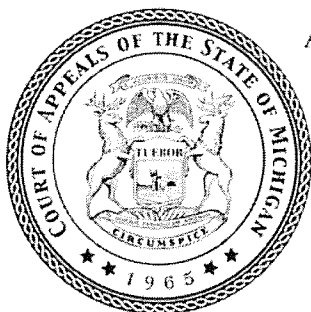
Cynthia Diane Stephens
Judges

The Court orders that the motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal is DENIED because defendant has failed to establish that the trial court erred in denying the motion for relief from judgment. With regard to defendant's arguments concerning whether the trial court erred by characterizing his motion as a motion for relief from judgment under subchapter 6.500 of the Michigan Court Rules, and without giving him prior notice of its intent to do so, we conclude that the trial court did not err by recharacterizing the motion. See *People v McSwain*, 259 Mich App 654, 678; 676 NW2d 236 (2003) (explaining that after a criminal defendant has exhausted his or her direct appeal, the procedures established by subchapter 6.500 of the Michigan Court Rules are the exclusive means to challenge a conviction). With regard to whether this State should adopt the rule of *Castro v US*, 540 US 375; 124 S Ct 786; 157 L Ed 2d 778 (2003), we find that the issue is not ripe for review because defendant has not filed a second motion for relief from judgment. See *Clough v State*, 136 So 3d 680, 684 (Fla Ct App, 2014).

The motion for remand and the motion for an evidentiary hearing are DENIED.

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

DEC 07 2018

Date

[Signature of Jerome W. Zimmer Jr.]
Chief Clerk