

# Court of Appeals, State of Michigan

## ORDER

Ken Freeman v Vincent DiLorenzo

Docket No. 348115

LC No. 2017-004164-CK

Jonathan Tukul  
Presiding Judge

Elizabeth L. Gleicher

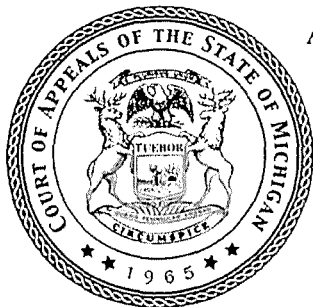
Colleen A. O'Brien  
Judges

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is DENIED. First, read in isolation, MCR 7.204(8) might appear to deprive this Court of jurisdiction over a claim of appeal if an entry fee is not paid within the time for filing a claim of appeal. However, MCR 7.201(8)(3) allows the Clerk of this Court to send a notice of deficiency with regard to the lack of an entry fee when a new appeal is filed and allows an appellant to supply the missing entry fee within 21 days of the date of such notice. Here, the Clerk of this Court provided notice to appellants regarding the lack of an entry fee and appellants filed the entry fee within 21 days thereafter. Thus, this Court has jurisdiction over the claim of appeal. MCR 7.204(8); MCR 7.201(8)(3).

Further, while it is true that appellants failed to file various items along with the claim of appeal such as the jurisdictional checklist, the stenographer's certificate, and a valid proof of service as required by MCR 7.204(C), that failure is not fatal to a review of this appeal. Those items were properly filed by appellants within 21 days of the defect letters generated by the Clerk of this Court and, therefore, dismissal is not required. MCR 7.201(8)(3).

Additionally, while it is true that the docketing statement was not filed within 28 days of the claim of appeal as required by MCR 7.204(H), it was filed well within the 21-day deficiency-cure period set forth in MCR 7.217(A). Because the docketing statement was filed within 21 days of the Clerk's Office reminder letter, dismissal of this appeal is not warranted. MCR 7.217(A).

Lastly, appellants' failure to timely file certain items with the trial court as required by MCR 7.204(E) does not justify dismissal of this appeal. Appellees admit that these items have now been filed with the trial court and there is no indication that appellees were prejudiced by the late filings with the trial court.



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

JUN 04 2019

Date

  
Chief Clerk