

# Court of Appeals, State of Michigan

## ORDER

People of MI v Tyree Darius Austin

Docket No. 349755

LC No. 12-034170-FC

Kathleen Jansen  
Presiding Judge

Deborah A. Servitto

Colleen A. O'Brien  
Judges

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In lieu of granting the delayed application for leave to appeal, the Court orders, pursuant to MCR 7.205(E)(2), that the June 4, 2019 order of the Genesee Circuit Court denying defendant's motion to exceed the page limit of MCR 6.502(C) hereby is REVERSED. Defendant has delineated the ten issues he seeks to raise in his motion for relief from judgment, and none were raised or decided in this Court's previous appeal. Appointed counsel chose to file a new motion to exceed the page limit rather than undertake the editing of defendant's brief to conform to the 50-page limit. Under the circumstances, the trial court abused its discretion in denying defendant's motion. See generally *People v Sharpe*, 502 Mich 313, 324; 918 NW2d 504 (2018). The trial court should grant defendant an extension and allow him to file a 90-page motion, and order the same page limit for the prosecution. The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



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

OCT 24 2019

Date

Chief Clerk