

Court of Appeals, State of Michigan

ORDER

In re Parole of Mark William Miller

Docket No. 355366

LC No. 19-007085-AP

David H. Sawyer
Presiding Judge

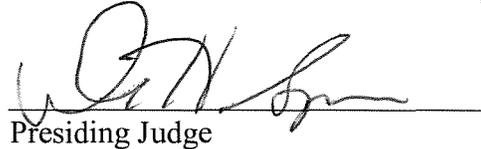
Douglas B. Shapiro

Mark T. Boonstra
Judges

The motion to waive fees is GRANTED for this case only.

The motion to appoint appellate counsel is DENIED.

The delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.


Presiding Judge

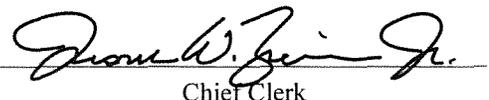
Shapiro, J., would grant the delayed application and include within the grant the question whether Judge Truscoc’s decision to overturn the parole board’s decision should be reversed. Defendant, who is in pro per and age 60, has served his 25-year minimum sentence. The parole board granted parole on July 11, 2019 and defendant was scheduled to be paroled on August 15, 2020. The prosecution had 21 days to file an appeal per MCR 7.118(D)(2), but failed to file a timely appeal. On August 14, 2019, the day before defendant was to be released, the prosecution filed an application for leave to appeal which the court granted the same day along with an order staying defendant’s release. On December 16, 2019, the circuit court reversed the parole board’s decision. The parole board filed a motion for reconsideration which the trial court ultimately denied on February 3, 2020. Defendant remains incarcerated. Defendant’s application is directed at whether the trial court had jurisdiction over the appeal. However, because he is in pro per and the relief he seeks is parole and release, this Court should consider both the jurisdictional question and the question whether the circuit court erred in concluding that the prosecution had established that the parole board’s action was in violation of Michigan law or was a clear abuse of discretion. MCR 7.118(H)(3).



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

JAN 21 2021

Date


Chief Clerk