

# Order

Michigan Supreme Court  
Lansing, Michigan

September 5, 2014

148308

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

RONALD LEE IRWIN,  
Defendant-Appellant.

Robert P. Young, Jr.,  
Chief Justice

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

SC: 148308  
COA: 315852  
Macomb CC: 2012-001975-FH

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On order of the Court, the application for leave to appeal the November 8, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for reconsideration of the defendant's April 22, 2013 delayed application for leave to appeal under the standard applicable to direct appeals. The defendant's former appellate attorney failed to timely file in the trial court a motion to withdraw the defendant's plea, and failed to file in the Court of Appeals, on direct review, a delayed application for leave to appeal within the deadlines set forth in MCR 7.205(F). Counsel acknowledged that the defendant did not contribute to the delay in filing and admitted her sole responsibility for missing the deadline. Accordingly, the defendant was deprived of his direct appeal as a result of constitutionally ineffective assistance of counsel. See *Roe v Flores-Ortega*, 528 US 470, 477; 120 S Ct 1029; 145 L Ed 2d 985 (2000); *Peguero v United States*, 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999).

Costs are imposed against the attorney, only, in the amount of \$250, to be paid to the Clerk of this Court.

We do not retain jurisdiction.

VIVIANO, J., did not participate because he presided over this case in the circuit court.



h0825

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 5, 2014

  
Clerk