

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Tyon Carter**
Docket No. **273211**
L.C. No. **03-011169-01**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The application for delayed leave to appeal from the January 23, 2004, judgment of sentence is **DISMISSED** because appellant failed to file the application within the time period required by MCR 7.205(F)(3). Furthermore, the exceptions found in MCR 7.205(F)(4) are inapplicable.

The Court notes that, although defendant timely requested the appointment of appellate counsel, no appeal of right was filed on defendant's behalf within the time allowed by MCR 7.204(A)(2). Ultimately, the circuit court granted a new trial to defendant, but this Court reversed that order. See *People v Carter*, unpublished per curiam opinion of the Court of Appeals, issued September 29, 2006 (Docket No. 261681). At that time, defendant's conviction and sentence were not reissued. In light of those circumstances, this case is **REMANDED** to the trial court. Within 56 days of the Clerk's certification of this order, the trial court shall reissue defendant's judgment of sentence pursuant to MCR 6.428. Defense counsel may file a claim of right in this Court within 21 days of the entry of that reissued judgment of sentence.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

DEC 11 2006

Date

Sandra Schultz Mengel
Chief Clerk