

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Curtis Lewis Jones**
Docket No. **278294**
L.C. No. **90-052941 FH**

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

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

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because the defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). Defendant cannot satisfy the newly discovered evidence exception set forth in MCR 6.502(G)(2). In particular, the defendant must show newly discovered evidence occurring after the denial of the first motion for relief from judgment. That means as part of the four-prong test the defendant must show that he exercised due diligence prior to December 21, 2004, when the first motion for relief from judgment was denied, but was unable to obtain the recanting affidavit. However, the defendant's application makes no claim, even though he was convicted 13 years earlier, that he made any effort to get that recanting affidavit prior to the denial of the first motion for relief from judgment.



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

JUN - 6 2007

Date

Sandra Schultz Mengel

Chief Clerk