

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Antoine Ray Thomas**
Docket No. **279702**
L.C. No. **01-025254-FC & 01-025255-FC**

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

The delayed application for leave to appeal filed on August 3, 2007, is DISMISSED for lack of jurisdiction. As a direct appeal, assuming the motion for resentencing was timely since defendant was told at sentencing that he would not be appointed appellate counsel and the motion for resentencing was filed within 12 months of the last counsel's appointment, it is untimely since the application was not filed within 21 days of the June 7, 2007 order denying the motion for resentencing as required by MCR 7.205(F)(4). As to timeliness requiring denial of a motion for relief from judgment, this is not an appeal as to a denial of a relief from judgment. The trial court never reviewed the motion under the required MCR 6.508 standard and the defendant does not argue in his application for leave to appeal that he is entitled to relief under MCR 6.508. Contrary to what defendant may believe there is a significant difference between a direct appeal, following denial of a motion for resentencing, and a second-tier appeal from an order denying a motion for relief from judgment.



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

AUG 21 2007

Date

Sandra Schultz Mengel

Chief Clerk