

## IN THE MICHIGAN COURT OF APPEALS

### ORDER

Re: **People of MI v Noel Marcial Hadley**

Docket No. **282408**

L.C. No. **06-003905-FH**

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 and motion to remand filed on December 7, 2007, are DISMISSED for lack of jurisdiction because the application was not filed within 12 months of the September 29, 2006 judgment of sentence as required by MCR 7.205(F)(3), nor was appellate counsel requested within 12 months of the September 29, 2006 judgment of sentence as required by MCR 7.205(F)(4). The record is insufficient to conclude that MCR 7.205(F)(3) and (F)(4) should be ignored. First, defendant had been sentenced in Clinton County only 8 months earlier in a guilty plea case. There is no allegation from the defendant that he was not informed of the appellate rights in that case. Second, there is no affidavit from trial defense counsel that counsel did not inform appellant of his appeal rights. Third, even though the record shows no information regarding the appeal rights, there has been no finding by the trial court that the paperwork was not provided to defendant off the record. Therefore, defendant's remedy is to file a motion for relief from judgment under MCR 6.500.



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

DEC 27 2007

Date

*Sandra Schultz Mengel*

Chief Clerk