

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Larry Scott Desmyther**
Docket No. **285262**
L.C. No. **95-010845-FH**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction. Defendant cannot appeal the March 17, 2008 order denying his motion for a new trial or evidentiary hearing because that motion constituted a successive motion for relief from judgment. MCR 6.501; MCR 6.502(G)(1). The exceptions provided by MCR 6.502(G)(2) are inapplicable because the motion at issue was not based on a claim of retroactive change in the law or newly discovered evidence.

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



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

NOV 14 2008
Date

Sandra Schultz Mengel
Chief Clerk