

# Court of Appeals, State of Michigan

## ORDER

People of MI v Jermaine Bernard Person

Docket No. 311139

LC No. 11-028286-FH

Patrick M. Meter  
Presiding Judge

Stephen L. Borrello

Amy Ronayne Krause  
Judges

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The motion to file leave application nunc pro tunc is DENIED. This Court's records reflect that the delayed application for leave to appeal was not filed until June 28, 2012. Specifically, no delayed application for leave to appeal in this case was received in February 2012, and we consider it overwhelmingly likely that this Court's records would reflect receipt of such a pleading in February 2012 if it had actually been received by the Clerk's Office at that time. We note that filing a pleading in this Court requires receipt by the Clerk's Office, MCR 7.202(4), not mere mailing of the pleading addressed to the Clerk's Office. Further, with due diligence, appellate defense counsel should have realized that this delayed application for leave to appeal had not been docketed in February 2012 in time to actually file it within the applicable 12-month deadline.

However, on the Court's own motion, the Clerk's Office shall treat defendant's delayed application for leave to appeal as filed within the deadline set forth within the 12-month limit of the version of MCR 7.205(F)(3) in force when the judgment of sentence was entered because appellate counsel's failure to file the delayed application within the deadline constituted ineffective assistance of counsel. *People v Means*, 480 Mich 989 (2007); *People v McCoy*, 480 Mich 989 (2007); *People v Rodgers*, 480 Mich 989 (2007); and *People v Kipfer*, 480 Mich 990 (2007).

Attorney Susan Walsh (P40447) shall pay to the Clerk of this Court costs of \$250 within 21 days of the Clerk's certification of this order. This sanction is personal to the attorney and shall not be charged back to the county or the state.

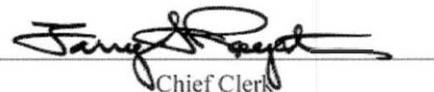
The Clerk's Office shall send a copy of this order to Thomas M. Harp, the Administrator of the Michigan Appellate Assigned Counsel System.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

OCT 01 2012

Date

  
Chief Clerk