

Court of Appeals, State of Michigan

ORDER

Matthew J. Brazys v David Ashen

Docket No. 328153

LC No. 12-049809-CH

Kathleen Jansen
Presiding Judge

Amy Ronayne Krause

Michael F. Gadola
Judges

The Court orders that the motion for reconsideration of the Court's July 7, 2015 order dismissing this appeal for lack of jurisdiction is DENIED. MCR 7.204(A)(3) provides that where service of the judgment or order on appellant was delayed beyond the time stated in MCR 2.602, the claim of appeal must be accompanied by an affidavit setting forth facts showing that the service was beyond the time stated in MCR 2.602. Here, appellant provided proof that service of the order was delayed. However, MCR 7.204(A)(3) further provides that if this Court finds that service of the judgment or order was delayed beyond the time stated in MCR 2.602 and the claim of appeal was filed within 14 days after service of the judgment or order, the claim of appeal will be deemed timely. In this case, appellant did not file the claim of appeal within 14 days after service of the order; rather, it was filed on the 20th day following service. Therefore, the claim of appeal cannot be deemed timely and the Court lacks jurisdiction.

Appellant may seek to appeal the May 21, 2015 order only by filing a delayed application for leave to appeal under MCR 7.205(G).

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



AUG 27 2015

Date

Jerome W. Zimmer Jr.
Chief Clerk