

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS J. ENFIELD,

Defendant-Appellant.

UNPUBLISHED

July 10, 2007

No. 264874

Oakland Circuit Court

LC No. 99-165935-FC

Before: Meter, P.J., and Kelly and Fort Hood, JJ.

PER CURIAM.

Defendant appeals by delayed leave granted the circuit court's order denying defendant's motion to exceed the 20-page limit for circuit court motions set forth in MCR 2.119(A)(2). We reverse and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In 1999, a jury convicted defendant of first-degree felony murder, MCL 750.316, and larceny from a person, MCL 750.357. He unsuccessfully appealed his conviction in both this Court and the Supreme Court. In 2005, he moved for relief from judgment in the circuit court. Because his motion and brief exceeded 20 pages¹, he also filed a motion to exceed the 20-page limit set forth in MCR 2.119(A)(2). The circuit court denied the motion, returned the motion for relief from judgment and brief in support, and ordered that defendant could file an amended motion and brief that did not exceed 20 pages.

Defendant first argues that the 20-page limit for motions set forth in MCR 2.119(A)(2) does not apply to motions for relief from judgment. This issue involves the interpretation of court rules which we review de novo. *People v Abraham*, 256 Mich App 265, 271; 662 NW2d 836 (2003).

MCR 2.119(A) sets forth the requirements regarding the "form of motions." MCR 2.119(A)(2) limits the combined length of motions and briefs to 20 pages. The rules of civil procedure are incorporated into the rules of criminal procedure through MCR 6.001(D), which states that the rules of civil procedure apply to criminal cases except "(1) as otherwise provided

¹ Defendant's combined motion and supporting brief totaled 54 pages.

by rule or statute, (2) when it clearly appears that they apply to civil actions only, or (3) when a statute or court rule provides a like or different procedure.”

MCR 6.502, which governs motions for relief from judgment, specifically sets forth the form of such motions. MCR 6.502(C). This subrule states what must be included in a motion for relief from judgment. At the time the circuit court’s order was entered, this subrule included no limit as to the number of pages of a brief supporting such a motion.² Pursuant to MCR 6.001(D)(3), the page limitation in MCR 2.119(A) does not apply in this case because MCR 6.502(C) specifically addresses the form of motions for relief from judgment. Therefore, at the time of defendant’s filing, no page limit existed for motions for relief from judgment. The circuit court erred in denying defendant’s motion to file a brief in excess of 20 pages.

Had defendant’s motion and brief totaled fewer than 50 pages, this case would be largely moot, because defendant would still be entitled to re-file the motion for relief from judgment under the newly amended court rule. However, because defendant’s motion and brief totaled 54 pages, we must decide whether the new September 1, 2006 page limit applies here.

In *Reitmeyer v Schultz Equip & Parts Co*, 237 Mich App 332, 337-343; 602 NW2d 596 (1999), this Court observed that MCR 1.102 indicates that a new rule should generally apply to all pending cases, but recognized that application of an amended rule is within the trial court’s discretion if such application would work an injustice on a party who acted in reliance on the consequences of the prior rule. See also *Davis v O’Brien*, 152 Mich App 495, 393 NW2d 914 (1986) (an injustice occurs where a party acts or fails to act in reliance on the prior rules and his action or inaction has consequences under the new rules which were not present under the old rules). In the instant case, defendant acted in “reliance” on the old rule to his detriment. Plaintiff’s contention that defendant could simply “trim” four pages off his analysis to meet the new page requirements may very well be correct. However, the fact remains that, if not for the circuit court’s error, defendant would not now be faced with the possible abandonment of a meritorious claim in order to meet the new page requirement.³

² This provision was amended, effective September 1, 2006, to provide for a 50-page limit.

³ Defendant also argues that the circuit court erred when it found that defendant had raised the same or similar issues in his motion for relief from judgment that he had raised in his direct appeal. The circuit court did touch on this issue when explaining why defendant had not shown good cause to exceed the 20-page limit. However, because the circuit court has not yet specifically reviewed these claims to decide whether defendant’s motion for relief from judgment should be granted, it would be premature to review them at this time.

We reverse the circuit court's denial of defendant's motion to exceed the page limit set out in MCR 2.119(A)(2), and remand this case for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Patrick M. Meter
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood