

Order

Michigan Supreme Court
Lansing, Michigan

December 10, 2008

Clifford W. Taylor,
Chief Justice

137011 & (19)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 137011
COA: 282046
Otsego CC: 07-003753-FH

JAMES JOSEPH PLATTE, JR.,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the July 2, 2008 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court. The motion to remand is DENIED as moot.

KELLY, J. (*dissenting*).

I would grant leave to appeal. Appellate counsel concededly missed the deadlines for filing a motion for a new trial and for a claim of appeal. Counsel also failed to file a motion for a stay or to remand in the Court of Appeals. When counsel filed an application for leave to appeal, it was denied. The Court should reexamine its practice of requiring a defendant to show prejudice in order to have an appeal as of right if counsel has been ineffective, as here. *People v Pickens*, 446 Mich 298 (1994).

Finally, I would grant leave to appeal in this case for the reasons stated in my dissent in *People v Conway*, 474 Mich 1140 (2006).



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 10, 2008

Corbin R. Davis

Clerk