

# Order

Michigan Supreme Court  
Lansing, Michigan

December 23, 2013

147761

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

ROY FAULKNER,  
Defendant-Appellant.

SC: 147761  
COA: 315302  
Wayne CC: 76-003215-FY

Robert P. Young, Jr.,  
Chief Justice

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

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On order of the Court, the application for leave to appeal the August 29, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the order of the Court of Appeals and we REMAND this case to that court for reconsideration of the defendant's delayed application for leave to appeal. Our review of the available trial court record reveals that the defendant is appealing the denial of his first motion for relief from judgment under MCR Subchapter 6.500 filed after August 1, 1995. See MCR 6.502(G)(1). Thus, it appears that the Court of Appeals erred in dismissing the delayed application for leave to appeal for lack of jurisdiction under MCR 6.502(G) as a prohibited successive motion. We note that in 2006 the defendant filed a petition for DNA testing under MCL 770.16, but the filing of that petition did not preclude him from filing a motion for relief from judgment under MCR Subchapter 6.500.

We do not retain jurisdiction.



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I, Larry S. Royster, 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 23, 2013

Clerk