Court of Appeals, State of Michigan

ORDER

Steven Carter v Parole and Commutation Board

Docket No. **313944**

LC No. **12-000601-AA**

Amy Ronayne Krause, Judge, acting under MCR 7.211(E)(2), orders:

Appellant's motion filed on February 28, 2013 is treated as a motion for reconsideration of this Court's February 7, 2013 order, and the motion for reconsideration is GRANTED and the February 7, 2013 order is VACATED. The language of MCL 600.2963(1) with its requirement that a prisoner provide a copy of an institutional account must reasonably be construed as considering only a person imprisoned by the Department of Corrections in an institution to be a "prisoner" for purposes of MCL 600.2963. See *McCahan v Brennan*, 492 Mich 730, 739; 822 NW2d 747 (2012) (statutory provisions to be read reasonably and in context). While appellant was a prisoner under that definition when he filed this appeal he ceased to be such a prisoner while this appeal remained pending and without yet having become obligated to pay an entry fee for this appeal. MCL 600.2963 is ambiguous in this situation because MCL 600.2963(1), read literally in isolation, would indicate that appellant is subject to MCL 600.2963 based on being a prisoner when he filed this appeal, but the provisions of MCL 600.2963(5) and (9) cannot be sensibly applied to require deductions from appellant's institutional account where as a paroled prisoner he does not have such an account. Cf. *Dybata v Wayne Co*, 287 Mich App 635, 642; 791 NW2d 499 (2010) (statute may be ambiguous if it "irreconcilably conflicts with another provision"). Construing MCL 600.2963 with common sense and to avoid unreasonable consequences, *id.*, it must reasonably be considered that MCL 600.2963 ceased to apply to appellant in the present context when he was paroled.

The motion to waive fees is GRANTED for this case only.

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

MAR 18 2013

Date

Chief Clerk