

# Court of Appeals, State of Michigan

## ORDER

Timothy Swiatlowski v Ryan Lee Kieszkowski

Docket No. 316830

LC No. 11-014378-NI

Donald S. Owens  
Presiding Judge

Michael J. Kelly

Amy Ronayne Krause  
Judges

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The Court orders that the motion to dismiss this appeal is DENIED. We recognize that, consistent with the plain language of MCR 7.210(B)(1)(a), appellants are required to provide evidence of ordering the full transcript of trial court proceedings, i.e., of the jury trial and all other orally conducted proceedings conducted on the record in the trial court. However, we conclude that appellants' failure to do so does not warrant the harsh sanction of dismissing this appeal. In this regard, MCR 7.211(C)(2)(b) cannot reasonably be considered to require dismissal of an appeal based on an appellant's failure to perfectly file or pursue an appeal in conformity with the rules where the court rules specifically allow for less drastic measures for filing deficiencies. See, e.g. MCR 7.201(B)(3).

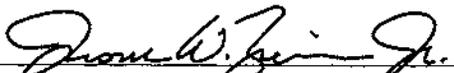
We direct appellants to provide evidence of having ordered the full transcript of trial court proceedings (other than the May 6, 2013 motion hearing transcript already filed with the trial court) as required by MCR 7.210(B)(1)(a) within 21 days of the date of this order. Failure to comply with this requirement may result in dismissal of this appeal.



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

**SEP - 5 2013**

Date

  
Chief Clerk