

Court of Appeals, State of Michigan

ORDER

David Rife v Sabrina Rife

Docket No. **318394**

LC No. **13-009040-DM**

William B. Murphy, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal is **DISMISSED** for lack of jurisdiction because it was not filed within 21 days of the August 2, 2013 order being appealed from and no motion for postjudgment relief was filed within the initial 21-day appeal period. MCR 7.204(A)(1)(a). Further, appellant's affidavit does not establish that the claim of appeal was filed within 14 days after service of the August 2, 2013 order on appellant so as to be timely under MCR 7.204(A)(3) because that affidavit fails to specify the date on which the lower court faxed a copy of that order to appellant's counsel. Appellant's counsel has also failed to respond to correspondence from the Clerk's Office of this Court requesting an expanded affidavit specifying that date. Moreover, regardless of any failure by appellee or the lower court to properly serve the August 2, 2013 order on appellant under the court rules, appellant must reasonably be considered to have been served with that order within the meaning of MCR 7.204(A)(3) when the lower court faxed a copy of that order to appellant's counsel who obviously received the fax. At this time, appellant may seek to appeal the August 2, 2013 order only by filing a delayed application for leave to appeal under MCR 7.205(F).



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

DEC 04 2013

Date

Jerome W. Zimmer Jr.

Chief Clerk