Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V JOHN JAMES SNYDER

Docket No. 377544

LC No. 05-010625-01-FC

Allie Greenleaf Maldonado
Presiding Judge

Matthew S. Ackerman

Christopher M. Trebilcock
Judges

The delayed application for leave to appeal is DENIED because defendant has failed to establish that the trial court erred in denying the successive motion for relief from judgment. Specifically, we hold that defendant has failed to carry his burden of satisfying the "good cause" requirement under MCR 6.508(D)(3). See *People v Clark*, 274 Mich App 248, 253-254; 732 NW2d 605 (2007) ("regardless of whether a defendant files a prior motion *in propria persona* or with representation, he or she is required to fulfill the good cause requirement in MCR 6.508(D)(3)"); *Davila v Davis*, 582 US 521, 529; 137 S Ct 2058; 198 L Ed 2d 603 (2017) ("[I]n proceedings for which the Constitution does not guarantee the assistance of counsel at all, attorney error cannot provide cause to excuse a default."). And assuming, arguendo, that appellant's counsel has accurately summarized the evidence that was submitted below in support of the disputed motion for relief from judgment, we are not persuaded that waiver of the "good cause" requirement is warranted on actual-innocence grounds under MCR 6.508(D)(3). As this Court observed in *People v Snyder*, unpublished per curiam opinion of the Court of Appeals, issued November 29, 2007 (Docket No. 272542), p 2, "the case against defendant was strong."

That said, it bears emphasis that defendant's retained counsel, Phillip Comorski, has failed to provide this Court with almost any of the pertinent record that would be necessary to review the issues raised here on the merits. In other words, appellant's counsel has failed to carry his burden of furnishing the necessary record to substantiate the claims of error raised on appeal. See *People v Elston*, 462 Mich 751, 762; 614 NW2d 595 (2000) (noting that appellants bear the burden of furnishing the necessary record to substantiate their claims of error). See also MCR 7.205(E)(1) ("The application is decided on the documents filed . . . ."); IOP 7.205(B)(1) ("The Court strongly recommends that the appellant file copies of relevant transcripts and pleadings because the Court does not receive the lower court record when deciding applications for leave to appeal."). Nor is this the first time that this particular attorney has failed to provide the necessary record in an appeal like this one. On the contrary, although this Court has previously taken the time to bring the matter to counsel's attention, the same problem has continued to recur. See *People v Childs*, unpublished order of the Court of Appeals, entered March 18, 2025 (Docket No. 373251) (denying leave to appeal for counsel's failure "to provide the necessary record for this Court to determine whether the trial court might have abused its discretion by denying the successive motion for relief from judgment").

Accordingly, we take this opportunity to again admonish counsel about the importance of providing the necessary record in support of applications for leave to appeal like the one at bar. For the reasons already explained, his failure to do so had no impact on our decision to deny leave to appeal here. But in the wrong case, this sort of "advocacy" might cause one of counsel's clients to procedurally forfeit

a substantively meritorious ground for relief. And because criminal defendants have no constitutional right to counsel in such collateral proceedings, see *Davila*, 582 US at 529, such a client would be left without the normal method of seeking recourse for such failures: a claim of ineffective assistance of counsel. Indeed, aside from the potential prejudice to his clients, counsel's failure to provide the necessary record tends to needlessly waste the limited resources of this Court. For that reason, we caution him that repetition of this problem might well be viewed as sanctionable conduct in future appeals.

Presiding Judge

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

February 20, 2026
Date

Chief Clerk