Court of Appeals, State of Michigan

ORDER

RICHARD ROWE V BRANDON MITORAJ

Docket No. 379475

LC No. 24-008232-NO

Allie Greenleaf Maldonado
Presiding Judge

Christopher M. Trebilcock

Mariam S. Bazzi
Judges

The motion to dismiss is DENIED. Appellee asks this Court to dismiss the application for lack of jurisdiction because the application was not "perfected" within 21 days of the date of entry of the trial court's order denying reconsideration. The argument is without merit. In this case, appellant ultimately challenges the trial court's December 16, 2025 order. Appellant timely sought reconsideration below, which was denied in an order entered January 27, 2026. In order to be deemed a timely application for leave to appeal, an application would need to be filed by February 17, 2026. MCR 7.205(A)(1) and (2). The application was filed on February 17, 2026, and thus is a timely filed application for leave to appeal.

Even if the application was not timely, this Court would still have jurisdiction to consider it. Pursuant to MCR 7.205(A)(4), this Court has jurisdiction over a delayed application for leave to appeal, which may be filed up to six months after the date of entry of the challenged order (or an order denying a timely filed motion for reconsideration). And, the six-month period in this case is still open as of the date of this order. Moreover, this Court may accept an appeal that is not fully conforming and issue a defect letter providing time to cure the defects. MCR 7.201(B)(3). This Court did so in this case, issuing a defect letter the same day the application was filed. But the fact that the application was defective does not bear on the jurisdictional analysis. The only defect noted by this Court was that the appendix needed to be bookmarked. See MCR 7.212(J)(2). A bookmarked appendix was filed on February 17, 2026, the same day the application was filed and the defect letter sent. Thus, the application was "perfected" before the 21-day period expired.

The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review. Appellant seeks review of the trial court's decision on a summary disposition motion brought under MCR 2.116(C)(10), which involves determining whether a genuine issue of material fact exists. For this Court to evaluate the trial court's decision on such a motion, this Court necessarily needs to see both the motion filed by appellant and the pleadings filed by appellee in response. But in application matters, this Court does not receive the lower court record, and so the application is decided on the pleadings provided by the parties. See 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.") This Court has not been provided with appellee's filings below. Without appellee's pleadings, this Court cannot determine whether the trial court erred and we cannot grant leave to appeal.

Presiding Judge

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

May 29, 2026
Date

Chief Clerk