Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V JOHN PAUL TOVAR

Docket No. 378298

LC No. 07-029831-FC

Adrienne N. Young
Presiding Judge

Mark T. Boonstra

Andrew J. Lievense
Judges

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

The motion to remand for an evidentiary hearing is DENIED.

The motion to file a brief in excess of the page limit is GRANTED.

Pursuant to MCR 7.205(E)(2) and MCR 7.216(A)(7), and in lieu of granting the delayed application for leave to appeal, the May 19, 2025 order denying defendant's motion for relief from judgment is VACATED and the case is REMANDED for reconsideration of defendant's motion for relief from judgment. Defendant asserted claims involving ineffective assistance of appellate counsel, which could amount to good cause, see *People v Kimble*, 470 Mich 305, 314 (2004); *People v Reed*, 449 Mich 375, 389-392 (opinion by BOYLE, J.), and a claim involving new evidence, which could also constitute good cause, see *People v Johnson*, 502 Mich 541, 565 (2018). On reconsideration, the trial court shall reexamine whether defendant adequately argued ineffective assistance of appellate counsel and new evidence as good cause for his failure to raise his claims of error earlier. See MCR 6.508(E). While engaging in this analysis, and contrary to the trial court's order suggesting otherwise, defendant is not required to show "good cause" for the delay in bringing a motion for relief from judgment under MCR 6.500. If the court determines that defendant established good cause under MCR 6.508(D)(3)(a) for his failure to raise one or more claims of error, the trial court shall individually address whether defendant established actual prejudice as to those claims. See MCR 6.508(D)(3)(b).

We do not retain jurisdiction.

Adrienne N. Young

Presiding Judge

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

May 18, 2026

Date

Jerome W. Zimmer Jr.

Chief Clerk