Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V DIMARCO EUGENE SMITH

Docket No. 377557

LC No. 2022-246746-FC

Allie Greenleaf Maldonado
Presiding Judge

Matthew S. Ackerman

Christopher M. Trebilcock
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, we VACATE the trial court's August 28, 2025 order and REMAND this matter to that court for further proceedings consistent with this order. Because defendant was acting pro se and this would have been his first motion for relief from judgment, the trial court erred by recharacterizing the subject motion as a motion for relief from judgment under MCR subchapter 6.500 without first following the procedure set forth under MCR 6.502(D). On remand, the circuit court shall serve defendant with a notice containing all of the information required under MCR 6.502(D), and the court shall afford him 90 days from the date of such service to either "withdraw or amend" the disputed motion before the court may recharacterize it as one seeking relief under MCR subchapter 6.500 and adjudicate it as such.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Presiding Judge

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

February 17, 2026
Date

Chief Clerk