Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V ANDREW BERNARD KEITH

Docket No. 377002

LC No. 13-003211-01-FC

Christopher M. Murray
Presiding Judge

Kristina Robinson Garrett

Kathleen A. Feeney
Judges

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

The delayed application for leave to appeal is DENIED. Defendant filed a motion in the trial court titled as a "motion for relief from judgment, restoration of appellate rights, pursuant to MCR 6.428." The trial court treated it as a successive motion for relief from judgment and denied it, while also noting that defendant was not entitled to restoration of appellate rights where he had an appeal in this Court from his judgment of sentence. See *People v Keith*, unpublished order of the Court of Appeals, entered March 8, 2016 (Docket No. 331240). Defendant asserts in this application that the trial court erred by treating his motion as a motion for relief from judgment when in fact it was a motion to restore appellate rights under MCR 6.428.

To the extent the motion was filed under MCR 6.428, it was correctly denied, as defendant had an appeal in this Court taken from his judgment of sentence with the assistance of appointed counsel. He thus was not "denied the right to appellate review or the appointment of counsel due to errors by the defendant's prior attorney or the court, or other factors outside the defendant's control . . . ." MCR 6.428. To the extent the trial court viewed the motion as a motion for relief from judgment, we find no error by the trial court in that regard, as defendant titled the motion as a motion for relief from judgment. Defendant has also failed to demonstrate that the trial court erred by denying the motion to the extent it sought relief from judgment. Accordingly, the delayed application is denied.

Christopher Murray

Presiding Judge

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

November 20, 2025
Date

Jerome W. Zimmer Jr.
Chief Clerk