Court of Appeals, State of Michigan

ORDER

Andrew J. Lievense
Presiding Judge

PEOPLE OF MI V TIMOTHY L BARNES

Docket No. 381300

Philip P. Mariani

LC No. 02-010098-01-FC

Mariam S. Bazzi
Judges

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

The application for leave to appeal is DENIED. Defendant, who has filed multiple motions for relief from judgment in the past, filed two postjudgment motions, one titled as a motion to "set aside or modify" his judgment of sentence, and the other as a motion for a new trial. The trial court deemed these to be successive motions for relief from judgment and explained that MCR 6.502(G) barred relief in both instances. Because defendant has exhausted the usual appellate process, he may *only* challenge his convictions and sentences under the procures of subchapter 6.500 of the Court Rules. MCR 6.501; *People v McSwain*, 259 Mich App 654, 678; 676 NW2d 236 (2003). Defendant argues that the trial court erred by recharacterizing the motions without following the procedures of MCR 6.502(D). However, the plain language of that court rule states that the procedures at issue only apply to what would otherwise be a pro se defendant's *first* motion for relief from judgment. The procedures of MCR 6.502(D) do not apply in this case because the motions at issue, once recharacterized, would still be successive motions for relief from judgment. The trial court correctly applied MCR 6.502(G) to the motions, and also correctly concluded that MCR 6.502(G) bars relief.

Presiding Judge

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

August 14, 2026
Date

Chief Clerk