Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V DERRICK LEE CARDELLO-SMITH

Docket No. 378175

LC Nos. 08-008639-01-FC; 19-000756-01-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 emergency motion for bond pending appeal and related request for oral argument on the motion are DENIED.

To the extent defendant challenges the trial court's September 3, 2025 order denying his motion for relief from judgment, the delayed application for leave to appeal is DENIED because defendant has not demonstrated that the trial court erred in denying the successive motion for relief from judgment. To the extent defendant challenges other orders entered by the trial court on September 3, 2025, the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

On the Court's own motion, the Court finds that defendant is a vexatious litigator under MCR 7.216(C)(3), as he has "habitually, persistently, and without reasonable cause engage[d] in vexatious conduct" in this Court, warranting imposition of sanctions. For many years, defendant has filed frivolous appeals in this Court, frequently supporting these filings with obviously forged and fraudulent documents. For example, in the present matter, defendant provided this Court with a transcript of an alleged "secret" proceeding held in chambers on May 1, 1998. The form and content of the alleged transcript make it fairly obvious that it is a forgery. Additionally, defendant has provided a document bearing a filing stamp from the Detroit Recorder's Court, dated May 2, 1998, apparently in an effort to convince this Court that the transcript is genuine. However, the Detroit Recorder's Court was abolished effective October 1, 1997. MCL 600.9931(1). This document only further demonstrates that the transcript is a forgery.

We are also aware that in Docket No. 378296, defendant has filed with this Court two alleged orders signed by a Wayne Circuit Judge on February 13, 2024. These are also clear forgeries, as the trial court's record in that case shows that an entirely different order was entered in that court on February 13, 2024. We believe that defendant, or someone acting on his behalf, copied the signature and seal from the actual order entered that date and used it to create two false orders which defendant is now seeking to have enforced.

In a lawsuit initiated in Lenawee Circuit Court, defendant obtained a default and substantial default judgment. However, the default was later set aside. Defendant provided two copies of the same mail receipt—one of which was doctored to make it appear as if defendant had mailed his complaint to the defendant in that matter with delivery restricted to the addressee. When he appealed in this Court in Docket No. 372888, defendant admitted that he did not use the restricted delivery option, essentially admitting that he obtained the default judgment using a forged mail receipt.

It has also been apparent that for many years, defendant has filed a number of obviously forged affidavits and other documents in various trial courts and in this Court. In a lengthy opinion, the court detailed how

defendant had filed a variety of forged affidavits in that court. *Cardello-Smith v Combs*, unpublished opinion and order of the Federal District Court, Case No. 24-cv-12647 (ED Mich, June 30, 2025). Many of these same documents have been filed in state courts, including this one, by defendant. Defendant also looks to have forged police reports, letters, alleged contracts, and other documents. Given defendant is incarcerated, it seems fairly apparent that he has had assistance from others in creating many of these fraudulent documents.

Defendant has filed dozens of appeals and original actions in this Court, frequently based on misrepresentations of the record or forged documents. See, e.g. Docket Nos. 372888; 367440; 369282; 369696; 366697; and 378296. Many of his prior appeals in this Court have been dismissed for failure to cure defects, indicating that defendant had no true intention of following through with the case. He frequently makes blatantly false factual statements. For example, in the present application, he claims that at sentencing in Case No. 19-000756-01-FC, he never stated that he did not wish to have an appellate attorney appointed to represent him, and that the trial court was wrong to state otherwise. A review of defendant's sentencing transcript shows that, just as the trial court explained in its order denying his motion to restore appellate rights, defendant refused to sign the request for counsel at sentencing and stated, "And I won't be needing an attorney to help me."

There are many more examples of defendant's frivolous, misleading, and outright false statements made to this Court and others. Like the federal district court, we conclude that defendant's conduct has gone on "for long enough." Pursuant to MCR 7.216(C)(3), first, we find it appropriate to impose pre-filing restrictions on defendant in this Court. Specifically, effective the date of this order, defendant may not institute legal proceedings in this Court without first obtaining leave to do so. And if defendant wishes to seek leave to continue or institute any further legal proceedings in this Court, he must include with his request for leave an affidavit in which he certifies that his proposed filing is not frivolous, has not been made in bad faith, and is well-grounded in fact.

Second, given defendant's lengthy history of filing frivolous matters in this Court, defendant will be assessed costs of $1,000 per MCR 7.219(J) upon any and all subsequent filings of vexatious proceedings or documents that this Court determines are forged.

This order shall have immediate effect. MCR 7.215(F)(2).

The motion to stay enforcement of any negative orders is DENIED.

Christopher Murray

Presiding Judge

Garrett, J., would not assess costs of $1,000 for future filings this Court determines are forged.

COURT OF APPEALS OF THE STATE OF MICHIGAN
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A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

December 4, 2025
Date

Jerome W. Zimmer Jr.
Chief Clerk