

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT COURT
CRIMINAL DIVISION



PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff - Appellee,

v.

Case No. 95-0128&37-01-FC
Hon. Margaret M. Van Houten

COREY MANNING,
Defendant - Appellant.

**OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR
RECONSIDERATION AND DENYING DEFENDANT'S MOTION FOR RELIEF FROM
JUDGMENT ON THE MERITS**

At a session of Court held at the Frank Murphy Hall of
Justice in the City of Detroit, Wayne County,
Michigan,

On: 1 FEB 1 2 2016

Present: Hon. Margaret M. Van Houten
Circuit Court Judge

This matter comes before the Court on Defendant Corey Manning's Motion for Reconsideration for Defendant's third Motion for Relief from Judgment. For the reasons stated below, the Motion for Reconsideration is granted and the Motion for Relief from Judgment is denied on the merits.

PROCEDURAL HISTORY

On September 9, 1996, Defendant was convicted after a jury trial of two counts of first degree murder, MCL 750.316(a), one count of home invasion first degree, MCL 750.110(a)(2), one count of assault with intent to do great bodily harm (GBH), MCL 750.84, and one count of

weapons - felony firearm, MCL 750.227b-a. On September 25, 1996, Defendant was sentenced to life without parole for the murder convictions, ten to twenty years on the home invasion count, six to ten years on the assault/GBH count, and the statutorily mandated two years consecutive for the felony firearm count.

Defendant's conviction and sentence were affirmed in *People v Manning*, unpublished per curiam opinion of the Court of Appeals, decided October 2, 1998 (Docket No: COA 199646), *lv den*, 459 Mich 994, (1999), decided May 25, 1999 (Docket No: SCT 113333). On February 6, 2006, this Court denied Defendant's motion for relief from judgment. Defendant's motion to reconsider was denied on April 6, 2006. On July 17, 2007, the Court of Appeals denied Defendant's application for leave to appeal. On November 29, 2007, the Supreme Court denied Defendant's application for leave to appeal. On September 30, 2015 Defendant filed a second motion for relief from judgment and to reissue the trial court judgment pursuant to MCR 6.428 arguing, *inter alia*, ineffective assistance of appellate counsel who failed to file a timely "motion to remand to the trial court", failed to file a timely brief on appeal, and failed to raise obvious issues of merit. The second motion for relief from judgment was denied on December 14, 2015.

Defendant filed a subsequent motion for reconsideration and that motion was denied on May 5, 2016. Defendant then filed a motion to disqualify Judge Margaret Van Houten as the successor judge, which was denied on July 8, 2016. Defendant subsequently filed a delayed application to appeal to the Michigan Court of Appeals, but his application was denied on September 27, 2016. Defendant filed a motion for reconsideration on October 6, 2016, but that motion was denied by the Court of Appeals on October 24, 2015. On October 26, 2016, Defendant filed an application for leave to the Michigan Supreme Court but this application was

subsequently denied on May 5, 2017. Defendant filed another motion for reconsideration and was denied once again by the Michigan Supreme Court. Defendant filed a third motion for relief from judgment on September 19, 2018, which was denied by this Court on December 10, 2018. Defendant now files this motion for reconsideration.

MCR 7.215(I) provides in part that “[m]otions for reconsideration are subject to the restrictions contained in MCR 2.119(F)(3).” MCR 2.119(F)(3) provides in part:

[A] motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

Defendant alleges that the Court’s error was the denial of the motion for reconsideration under MCR 6.502(G)(2) since Defendant’s motion was based on a jurisdictional question rather than newly discovered evidence or retroactive change in law. Defendant correctly asserts that jurisdictional issue may be raised at any time, even if the issue is raised in an improperly supported motion. *People v Washington*, 321 Mich. App. 276 (2017). Therefore, this Court will consider the merits of Defendant’s argument regarding his incompetence.

FACTS

On December 1, 1995, Defendant was ordered to undergo a competency evaluation at the Recorder’s Court Clinic. Defendant was seen on January 25, 1996, and a report was authored by Dr. Sandra K. Paige (Competency Report, pg. 7, 6/19/1996). Defendant was recommended as competent to stand trial. A motion was filed to refer Defendant back for further examination and that motion was granted. On April 18, 1996, Judge Wendy Baxter ordered Defendant to undergo evaluation for competency to stand trial. Defendant underwent the second examination on May 22, 1996, at the Center for Forensic Psychology. Defendant was examined by Stephen A. Norris and was judged competent in a report submitted to the Court on June 19, 1996. The interview

consisted of a clinical interview which lasted approximately four hours and 42 minutes (Competency Report pg. 1, 6/19/1996). This report was submitted to both the Prosecutor's office and Defense Counsel. On August 2, 1996, the trial court held an evidentiary hearing regarding Defendant's competence. Defendant's counsel, George Chedraue waived Defendant's presence and reported that the Defendant agreed with the report and stipulated with the people that Defendant did not want to argue diminished capacity or criminal responsibility. (Evidentiary Hearing pg. 3, 8/2/1996). Defendant proceeded to trial and was found guilty by jury on September 9, 1996.

ANALYSIS

Defendant argues that he is entitled to relief from judgment due to being placed on trial while incompetent, absent a proper and adequate hearing or a proper determination of competence. During the time of Defendant's hearing, MCL 767.27a(4) provided that:

(4) Upon receipt of the diagnostic report and recommendations the sheriff shall immediately return the defendant to the committing court and the court shall immediately hear and determine the issue of competence to stand trial. The diagnostic report and recommendations shall be admissible as evidence in the hearing, but not for any other purpose in the pending criminal proceedings.

Moreover, the statute created a substantially justiciable right that the Defendant shall be present during the hearing. *People v Lucas*, 47 Mich. App 385, 388 (1973). See also MCL 768.3 and U.S. Const. Am. VI. Defendant was not present at the competency hearing per the hearing transcript. (Evidentiary Hearing pg. 3, 8/2/1996). Therefore, the Court must determine the effect of the error by Defendant's non-appearance on the conviction.

Competency in Michigan is determined by statute. MCL 330.2020(1) states:

A defendant to a criminal charge shall be presumed competent to stand trial. He shall be determined incompetent to stand trial only if he is incapable because of his mental condition of understanding the nature and object of the proceedings against him or of assisting in his defense in a rational manner. The court shall determine the capacity of a defendant to assist in his defense by his ability to perform the tasks reasonably necessary for him to perform in the preparation of his defense and during his trial.

To determine competency, the trial Court shall order the Defendant to undergo a psychological examination, and after the examination conduct a hearing resolving the issue of incompetence.¹

The Michigan Court of Appeals has held that “trial judge's failure to conduct the requisite hearing does not *ipso facto necessitate* a reversal of defendant's conviction.” *People v Lucas*, 47 Mich App 385, 390 (1973). The test is rather, whether the Defendant was incompetent at the time of trial. A defendant is mentally incompetent to stand trial if he lacks a “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding” and “a rational as well as factual understanding of the proceedings against him.” *Harries v Bell* 417 F3d. 631 (2005) (*quoting Dusky v United States*, 362 U.S. 402, (1960) (per curiam)). This is supported by the test in *Lucas*, where the court stated if the Defendant was found competent to stand trial at the time he pled guilty, the conviction is affirmed. *Id.* at 391. Competency is a question of fact for which the Court reviews for clear error. *United States v McCarty*, 628 F.3d. 284, 294 n. 1 (6th Cir. 2010).

Defendant argues that at the time of trial he should have been adjudicated as incompetent for several reasons: (1) Dr. Norris' report was insufficient for the trial court to consider due to the fact that Defendant did not reappear for additional testing and that Dr. Norris' assertions regarding his competence were subjective; (2) Dr. Norris was unable to observe Defendant without the use of medications, as he appeared naturally; (3) the Defendant's diagnoses of personality disorders and major depression coupled with his history of sexual abuse, physical abuse by guards and prolonged substance abuse rendered him incompetent. This Court disagrees.

The Supreme Court held that it is not enough to judge a Defendant competent simply because the defendant is oriented to time and place and has some recollection of event but rather, “whether he has sufficient present ability to consult with his lawyer with a reasonable degree of

¹ MCL 330.2026 and MCL 330.2030.

rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.”” *Dusky v United States*, 362 US 402; 80 S Ct 788, 789; 4 L Ed 2d 824 (1960). Moreover, a court may accept the testimony of a psychologist with respect to defendant’s competency to stand trial. *People v James*, 87 Mich. App. 412, 418 (1978).

While Defendant may disagree with Dr. Norris’ conclusion as subjective and needed more testing, the trial court was not in error by relying on his report in concluding that the Defendant was competent to stand trial. In the attached report Dr. Norris found, “[h]e [Defendant] was aware of what he was charged with and the name of the charges. He knew the maximum potential consequences of being convicted of the murder, assault and firearm charges, and he was able to give a close estimation of the maximum consequence of the home invasions charge. He understood the role of various court personnel and he understood the results of finds of guilty and not guilty. Mr. Manning was aware of his right to have witnesses cross-examined and the right to not be compelled to testify against himself. Mr. Manning knew who his attorney was and reported that he was getting along with him...” (Competency Exam Report pg. 8-9 6/19/1996). Moreover, this was not the first time Defendant was tested and held to be competent. Dr. Norris’ examination clearly meets the standard of *Dusky*. In addition to what is stated in the report, Defendant’s counsel stated on the record that he reviewed the report with Defendant and he did not object to the content of the report (Evidentiary Hearing Transcript pg. 3, 8/2/1996).

Defendant’s argument that he was observed without medication has no merit. The Michigan Court of Appeals has ruled that “the Psychopharmaceutical restoration of a mentally incompetent accused is now a common and effective procedure,” thus Dr. Norris observation of Defendant under the use of drugs does not warrant an error. *People v Hardesty*, 139 Mich App 124, 136–37(1984).

Finally, Defendant asserts that he must have been incompetent due to his diagnoses of personality disorders and major depression coupled with his history of sexual abuse, physical abuse by guards and prolonged substance abuse. This Court disagrees. As stated above, the *Dusky* test examines the ability of a defendant to have sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him. Defendant presents no new information that would have changed the trial courts competency ruling. Defendant was interviewed by two separate psychologists and could have disclosed the information during the interviews. Moreover, Defendant was medicated during his time of incarceration and prior to trial, which presumably would have ameliorated or decreased his hallucinations if they did occur during trial. Finally, even if the interviews and the medication had failed, Defendant had ample opportunity to bring to the Court's attention his stressors, nightmares, depression, feelings of guilt and abuse – all of which he claims were occurring during the trial. Per the review standard for competency, the trial court did not commit a clear error by its non-consideration of evidence not presented by Defendant. Therefore, Defendant is not entitled to relief.

Thus, **IT IS HEREBY ORDERED**, for the reasons stated above, that Defendant's motion for relief from judgment is hereby **DENIED**.

IT IS SO ORDERED.

Date: Feb 1 2 2019



Hon. Margaret M. Van Houten
Third Circuit Court Judge, Criminal Division

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT COURT
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff – Appellee,

Case No. 95-0128837-01-FC
Hon. Margaret M. Van Houten

v.

COREY MANNING,
Defendant – Appellant.

**OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR
RECONSIDERATION AND DENYING DEFENDANT'S MOTION FOR RELIEF FROM
JUDGMENT ON THE MERITS**

At a session of Court held at the Frank Murphy Hall of
Justice in the City of Detroit, Wayne County,
Michigan,

On: MAY 6 2019

Present: Hon. Margaret M. Van Houten
Circuit Court Judge

This matter comes before the Court on Defendant Corey Manning's Motion for Reconsideration for Defendant's third Motion for Relief from Judgment. For the reasons stated below, this motion is **DENIED**.

PROCEDURAL HISTORY

On September 9, 1996, Defendant was convicted after a jury trial of two counts of first degree murder, MCL 750.316(a), one count of home invasion first degree, MCL 750.110(a)(2), one count of assault with intent to do great bodily harm (GBH), MCL 750.84, and one count of weapons - felony firearm, MCL 750.227b-a. On September 25, 1996, Defendant was sentenced

to life without parole for the murder convictions, ten to twenty years on the home invasion count, six to ten years on the assault/GBH count, and the statutorily mandated two years consecutive for the felony firearm count.

Defendant's conviction and sentence were affirmed in *People v Manning*, unpublished per curiam opinion of the Court of Appeals, decided October 2, 1998 (Docket No: COA 199646), *lv den*, 459 Mich 994, (1999), decided May 25, 1999 (Docket No: SCT 113333). On February 6, 2006, this Court denied Defendant's motion for relief from judgment. Defendant's motion to reconsider was denied on April 6, 2006. On July 17, 2007, the Court of Appeals denied Defendant's application for leave to appeal. On November 29, 2007, the Supreme Court denied Defendant's application for leave to appeal. On September 30, 2015 Defendant filed a second motion for relief from judgment and to reissue the trial court judgment pursuant to MCR 6.428 arguing, *inter alia*, ineffective assistance of appellate counsel who failed to file a timely "motion to remand to the trial court", failed to file a timely brief on appeal, and failed to raise obvious issues of merit. The second motion for relief from judgment was denied on December 14, 2015.

Defendant filed a subsequent motion for reconsideration and that motion was denied on May 5, 2016. Defendant then filed a motion to disqualify Judge Margaret Van Houten as the successor judge, which was denied on July 8, 2016. Defendant subsequently filed a delayed application to appeal to the Michigan Court of Appeals, but his application was denied on September 27, 2016. Defendant filed a motion for reconsideration on October 6, 2016, but that motion was denied by the Court of Appeals on October 24, 2015. On October 26, 2016, Defendant filed an application for leave to the Michigan Supreme Court but this application was subsequently denied on May 5, 2017. Defendant filed another motion for reconsideration and

was denied once again by the Michigan Supreme Court. Defendant filed a third motion for relief from judgment on September 19, 2018, which was denied by this Court on December 10, 2018. Defendant filed a motion for reconsideration on December 18, 2018. The Court granted the motion for reconsideration but denied the Defendant's motion for relief from judgment on the merits on February 12, 2019. Defendant now files a second motion for reconsideration.

MCR 7.215(I) provides in part that “[m]otions for reconsideration are subject to the restrictions contained in MCR 2.119(F)(3).” MCR 2.119(F)(3) provides in part:

[A] motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

In the present Motion for Reconsideration, Defendant alleges that there was a palpable error committed by this Court, specifically, that the Court did not apply the remedy of remanding the case to have the Defendant undergo a second competency hearing

It is clear from Defendant's Motion that he disagrees with the decision and reasoning set forth in this Court's Opinion denying Defendant's Motion for Relief from Judgment. While Defendant sets forth the reasons for his disagreement, and refers to those reasons as “palpable error,” the present Motion presents the same issues which ruled on by the court, in the order denying his motion for relief from judgment. Accordingly, Defendant has failed to overcome the

burden proscribed by MCR 7.215(I) and MCR 2.119(F)(3). Therefore, Defendant's Motion for Reconsideration is hereby **DENIED**.

IT IS SO ORDERED.

Date: MAY 06 2019



Hon. Margaret M. Van Houten
Third Circuit Court Judge, Criminal Division

APPENDIX A-2

Trial Court order Denying original
motion for relief from Judgment

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT COURT
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff – Appellee,

Case No. 95-0128837-01-FC
Hon. Margaret M. Van Houten

v.

COREY MANNING,
Defendant – Appellant.

**OPINION AND ORDER DENYING DEFENDANT'S MOTION FOR RELIEF FROM
JUDGMENT**

At a session of Court held at the Frank Murphy Hall of
Justice in the City of Detroit, Wayne County,

Michigan,

On: DEC 1 0 2018

Present: Hon. Margaret M. Van Houten
Circuit Court Judge

This matter comes before the Court on Defendant Corey Manning's third motion for relief from judgment. Defendant may only file a motion for relief from judgment pursuant to MCR 6.500 *et seq.* For the reasons stated below, this motion is DENIED.

Procedural History

On September 9, 1996, Defendant was convicted after a jury trial of two counts of first degree murder, MCL 750.316(a), one count of home invasion first degree, MCL 750.110(a)(2), one count of assault with intent to do great bodily harm (GBH), MCL 750.84, and one count of weapons - felony firearm, MCL 750.227b-a. On September 25, 1996, Defendant was sentenced

to life without parole for the murder convictions, ten to twenty years on the home invasion count, six to ten years on the assault/GBH count, and the statutorily mandated two years consecutive for the felony firearm count.

Defendant's conviction and sentence were affirmed in *People v Manning*, unpublished per curiam opinion of the Court of Appeals, decided October 2, 1998 (Docket No: COA 199646), *lv den*, 459 Mich 994, 595 NW2d 851 (1999), decided May 25, 1999 (Docket No: SCT 113333). On February 6, 2006, this Court denied Defendant's motion for relief from judgment. Defendant's motion to reconsider was denied on April 6, 2006. On July 17, 2007, the Court of Appeals denied Defendant's application for leave to appeal. On November 29, 2007, the Supreme Court denied Defendant's application for leave to appeal. On September 30, 2015 Defendant filed a second motion for relief from judgment and to reissue the trial court judgment pursuant to MCR 6.428 arguing, *inter alia*, ineffective assistance of appellate counsel who failed to file a timely "motion to remand to the trial court", failed to file a timely brief on appeal, and failed to raise obvious issues of merit. The second motion for relief from judgment was denied on December 14, 2015. Defendant filed a motion for reconsideration and that motion was denied on May 5, 2016. Defendant then filed a motion to disqualify Judge Margaret Van Houten as the successor judge, which was denied on July 8, 2016. Defendant subsequently filed a delayed application to appeal to the Michigan Court of Appeals, but his application was denied on September 27, 2016. Defendant filed a motion for reconsideration on October 6, 2016, but that motion was denied by the Court of Appeals on October 24, 2015. On October 26, 2016, Defendant filed an application for leave to the Michigan Supreme Court but this application was subsequently denied on May 5, 2017. Defendant shortly filed another motion for reconsideration

and was denied once again by the Michigan Supreme Court. Defendant now files his third motion for relief from judgment.

As this is not Defendant's first motion for relief from judgment, Michigan Court Rule 6.502(G), which governs successive motions for relief from judgment, applies:

- (1) Except as provided in subrule (G)(2), regardless of whether a defendant has previously filed a motion for relief from judgment, after August 1, 1995, one and only one motion for relief from judgment may be filed with regard to a conviction.
- (2) A defendant may file a second or subsequent motion based on a retroactive change in law that occurred after the first motion for relief from judgment or a claim of new evidence that was not discovered before the first such motion....

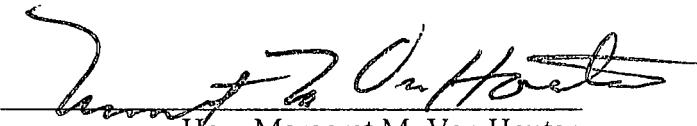
Accordingly, a defendant must present either newly discovered evidence or argue a retroactive change in the law in order for this Court to grant relief. Defendant has not argued any retroactive change in law, nor has he presented new evidence to this Court; therefore he is not entitled to relief on those grounds.

Since defendant has failed to show either newly discovered evidence or a retroactive change in law, as required for a subsequent motion for relief from judgment pursuant to MCR 6.502(G)(2), the Court lacks the authority to address his substantive argument regarding competency.

Thus, **IT IS HEREBY ORDERED**, for the reasons stated above, that defendant's motion for relief from judgment is hereby **DENIED**.

IT IS SO ORDERED.

Date: Dec 1 2010



Hon. Margaret M. Van Houten
Third Circuit Court Judge, Criminal Division

Appendix B

Michigan Court of Appeals Order Denying
APPLICATION FOR LEAVE TO APPEAL

APPENDIX C

Michigan Supreme Court
Order Denying Application for
LEAVE TO APPEAL

Court of Appeals, State of Michigan

ORDER

People of MI v Corey Manning

Mark T. Boonstra
Presiding Judge

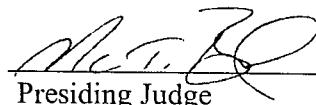
Docket No. 348967

Jane M. Beckering

LC No. 95-012837-01-FC

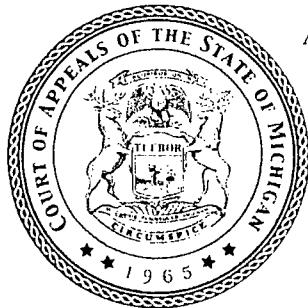
Douglas B. Shapiro
Judges

The Court orders that the motion for reconsideration is DENIED.



Presiding Judge

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



OCT 17 2019

Date



Jerome W. Zimmer Jr.

Chief Clerk

APPENDIX B

Court of Appeals, State of Michigan

ORDER

People of MI v Corey Manning

Docket No. 348967

LC No. 1995-012837-01-FC

Mark T. Boonstra
Presiding Judge

Jane M. Beckering

Douglas B. Shapiro
Judges

The Court orders that the motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal is DENIED. Defendant has failed to demonstrate the entitlement to an application of any of the exceptions to the general rule that a movant may not appeal the denial of a successive motion for relief from judgment. MCR 6.502(G).



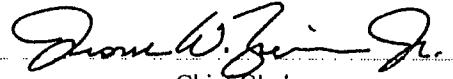
Presiding Judge



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

SEP 24 2019

Date



Chief Clerk

APPENDIX B-1

Order

Michigan Supreme Court
Lansing, Michigan

July 28, 2020

Bridget M. McCormack,
Chief Justice

160508(20)

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 160508
COA: 348967
Wayne CC: 95-012837-FC

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

COREY MANNING,
Defendant-Appellant.

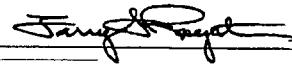
On order of the Court, the motion for reconsideration of this Court's March 27, 2020 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).



a0720

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 28, 2020



Clerk

APPENDIX C

Document: People v. Manning, 2020 Mich. LEXIS 591

People v. Manning, 2020 Mich. LEXIS 591

[Copy Citation](#)

Supreme Court of **Michigan**

March 27, 2020, Decided

SC: 160508

Reporter

2020 Mich. LEXIS 591 *

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v COREY MANNING, Defendant-Appellant.

Prior History: [*1] COA: 348967. Wayne CC: 95-012837-FC.

People v. Manning, 2019 **Mich.** App. **LEXIS 5760** (**Mich.** Ct. App., Sept. 24, 2019)

Core Terms

order of the court

Judges: Bridget M. McCormack ▼, Chief Justice. David F. Viviano ▼, Chief Justice Pro Tem. Stephen J. Markman ▼, Brian K. Zahra ▼, Richard H. Bernstein ▼, Elizabeth T. Clement ▼, Megan K. Cavanagh ▼, Justices.

Opinion

Order

On order of the Court, the application for leave to appeal the September 24, 2019 order of the Court of Appeals is considered, and it is DENIED, because the defendant's motion for relief from judgment is prohibited by MCR 6.502(G). The motion for the appointment of counsel is DENIED.

Content Type: Cases

Terms: people v. manning 2020 mich. lexis 591

Narrow By: Sources: Sources

Date and Time: Apr 12, 2020 12:18:47 p.m. CDT

Appendix D