

Order

APPENDIX F

Michigan Supreme Court
Lansing, Michigan

October 8, 2021

Bridget M. McCormack,
Chief Justice

163192

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v
KUSHAWN MILES-EL, a/k/a KUSHAWN S.
MILES,
Defendant-Appellant.

SC: 163192
COA: 356260
Wayne CC: 93-010422-FC

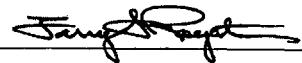
On order of the Court, the application for leave to appeal the April 28, 2021 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



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.

October 8, 2021

t0927



Clerk

Order

APPENDIX A

Michigan Supreme Court
Lansing, Michigan

January 4, 2022

Bridget M. McCormack,
Chief Justice

163192 (21)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163192
COA: 356260
Wayne CC: 93-010422-FC

KUSHAWN MILES-EL, a/k/a KUSHAWN S.
MILES,
Defendant-Appellant.

On order of the Court, the motion for reconsideration of this Court's October 8, 2021 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).



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.

January 4, 2022

Clerk

m1220

APPENDIX - C

Court of Appeals, State of Michigan

ORDER

People of MI v Kushawn Miles-El

Kirsten Frank Kelly
Presiding Judge

Docket No. 356260

Christopher M. Murray

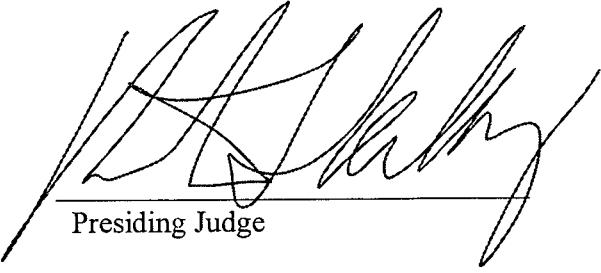
LC No. 93-010422-01-FC

Cynthia Diane Stephens
Judges

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

The motion to "accept pro-per pleadings as is" is GRANTED.

The delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.



Presiding Judge



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

April 28, 2021

Date



Chief Clerk

THIRD JUDICIAL CIRCUIT COURT CRIMINAL DIVISION
COUNTY OF WAYNE
STATE OF MICHIGAN

STATE OF MICHIGAN

HON. KELLY A. RAMSEY

Case No. 93-10422-01-FC

v

KUSHAWN MILES-EL

/

ORDER DENYING DEFENDANT'S VERIFIED MOTION FOR RECONSIDERATION

AT A SESSION OF SAID COURT HELD IN THE FRANK
MURPHY HALL OF JUSTICE ON: 11/30/2000
PRESENT: HONORABLE KELLY A. RAMSEY

This matter is before the Court on Defendant's Verified Motion for Reconsideration of this Court's Order Denying Defendant's Motion for Reissuance of Judgment of Sentence. The Court has reviewed the matter and being otherwise fully advised in the premises, it is ordered that Defendant's motion is **DENIED** as Defendant has failed to demonstrate that this Court was misled by a palpable error in which a different disposition of the motion is required under MCR 2.119(F)(3).

For a motion for reconsideration, “[t]he 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.” MCR 2.119(F)(3).

Defendant asserts that the Court erroneously applied the procedural bars of MCR 6.508(D)(3)(a)(1) rather than the plain language of MCR 6.428.

Michigan Court Rule 6.428 states:

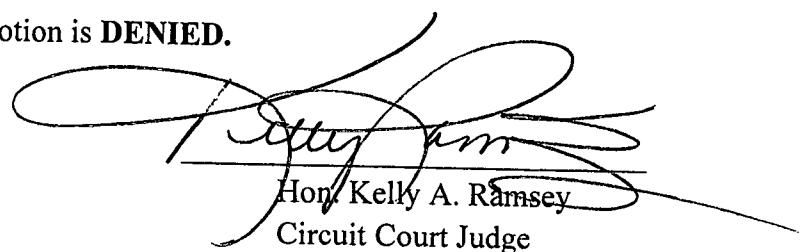
If the defendant did not appeal within the time allowed by MCR 7.204(A)(2) and demonstrates that the attorney or attorneys retained or appointed to represent the defendant on direct appeal from the judgment either disregarded the defendant's instruction to perfect a timely appeal of right, or otherwise failed to provide effective assistance, and, but for counsel's deficient performance, the defendant would have perfected a timely appeal of right, the trial court shall issue an order restarting the time in which to file an appeal of right.

Defendant fails to take into account the first clause of MCR 6.428 which maintains that a defendant must not have appealed within the time allowed under the court rules. Defendant's reliance on the “or otherwise failed to provide effective assistance” is part of the second clause.

The Court's previous ruling primarily relied on the first clause of MCR 6.428 since Defendant did appeal within the time allowed by MCR 7.204(A)(2).

Thus, it is hereby ordered that Defendant's motion is **DENIED**.

DATED: 30 November 2020


Hon. Kelly A. Ramsey
Circuit Court Judge