

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Reynaurd Martell Gober

Docket No. 358245

LC No. 10-001008-01-FC

Cynthia Diane Stephens  
Presiding Judge

Kirsten Frank Kelly

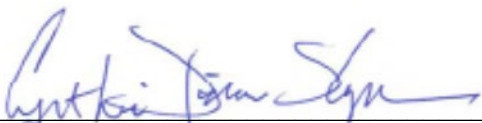
Michael J. Riordan  
Judges

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

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application, the trial court’s March 1, 2021 order is VACATED, and the matter REMANDED for further proceedings consistent with this order. It is unclear whether defendant signed and filed the motions decided by the trial court’s order himself, or whether another inmate signed and filed these pleadings. On remand, the trial court must first determine whether these motions were properly filed. If not, the motions should be stricken. If the motions were properly filed by defendant, the trial court shall reconsider its decision. The trial court erred by concluding that MCR 6.508(D)(2) barred relief. Although the motion for relief from judgment raises an issue that was raised in a prior motion for relief from judgment, the successive motion is premised on new evidence that was not available at the time the first motion was filed. MCR 6.508(D)(2) is not a bar to relief where the defendant raises “previously-decided claims in the context of a new claim for relief, such as in determining whether new evidence would make a different result probable on retrial, or if the previously decided claims, when considered together with the new claim for relief, create a significant possibility of actual innocence[.]” If the court determines that the motions were properly filed, and given that the motion for relief from judgment is based on new evidence, see MCR 6.502(G), on remand, the trial court shall decide the motion for relief from judgment under MCR 6.508(D)(3). Further, before resolving any of the questions before it on remand, the trial court shall appoint counsel for defendant, MCR 6.505(A), who shall be provided “56 days to amend or supplement the motion[.]” MCR 6.505(B).

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

  
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Presiding Judge



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

December 27, 2021  
Date

  
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Chief Clerk