In the Court of Appeals of the State of Alaska

Leonardo John Lovette II,	)	
	)	Court of Appeals No. **A-12469**
Appellant,	)	
v.	)	**Order**
	)	Affirming Clerk's Decision
State of Alaska,	)	
	)	
Appellee.	)	Date of Order: **July 29, 2019**
	)	

Trial Court Case # **3AN-11-13405CR**

The Appellant, Leonardo John Lovette II, appealed his conviction and his sentence to this Court. In *Lovette v. State*, Alaska App. Summary Disposition No. 0039 (May 29, 2019), this Court affirmed both Lovette's conviction and sentence.

Under Alaska Appellate Rule 209(b)(5), at the conclusion of any appellate case in which a criminal defendant is represented by court-appointed counsel, the Clerk of the Appellate Courts is directed to "enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant's conviction was reversed by the appellate court." Because Lovette was represented by court-appointed counsel in this appeal, and because Lovette's appeal was a combined merit and sentence appeal, the Appellate Court Clerk's Office intends to enter judgment against Mr. Lovette in the amount of $2000 for the cost of counsel. *See* Alaska Appellate Rule 209(b)(6).

Mr. Lovette now seeks judicial review of the Clerk's decision. *See* Alaska Appellate Rule 503(h)(2)(A).

In his opposition to the entry of judgment for the cost of appellate counsel, Lovette first asserts that he should not have to pay the judgment for attorneys fees because he filed a petition for hearing to the Alaska Supreme Court, and, therefore, his conviction could still be reversed. But as the Clerk's Office noted when it rejected this assertion, there is no record that Mr. Lovette sought review from the supreme court in this case.

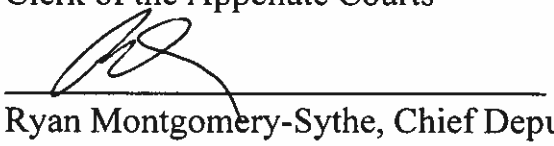
Second, Mr. Lovette also essentially contends he should not have to pay the judgment for attorneys fees because he believes that his appellant attorney provided ineffective assistance of counsel. But a claim that his appellate attorney was ineffective is insufficient to relieve Mr. Lovette from the scope of Appellate Rule 209(b). To the extent that Mr. Lovette believes that his appellate attorney was incompetent, Mr. Lovette may seek relief by filing and litigating an application for post-conviction relief in the superior court.

Appellate Rule 209(b)(5) and (6) require indigent appellants whose convictions are affirmed on appeal to reimburse to the government some of the cost of the attorneys who represent them at public expense. Because this Court affirmed the superior court's judgment on appeal, Mr. Lovette is required to reimburse to the government some of the cost of the attorneys who represent them at public expense.

Accordingly, the decision of the Appellate Court Clerk to enter a $2000 judgment against Mr. Lovette for the cost of counsel under Appellate Rule 209(b) is **AFFIRMED.**

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts



Ryan Montgomery-Sythe, Chief Deputy Clerk

Distribution:

Justin Tapp - OPA Contractor
Denali Law Group
750 W 2nd Ave., Ste. 104
Anchorage AK 99501

Elizabeth Burke
Office of Criminal Appeals
1031 W. 4th Ave, Suite 200
Anchorage AK 99501

Leonardo J. Lovette
Goose Creek Correctional Center
22301 West Alsop Road
Wasilla AK 99687