STATE OF MICHIGAN
IN THE MACOMB COUNTY CIRCUIT COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

-vs-

File No. 2017-003420-FC
Hon. Joseph Toia

GEORGE GERALD RIDER-BEY,
Defendant.
_____/

JUDGE'S COPY

MOTION FOR RELIEF FROM JUDGMENT
BASED ON NEWLY DISCOVERED EVIDENCE
WITH
MEMORANDUM OF LAW INCORPORATED THEREIN

ADDENDUM

STATE OF MICHIGAN

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Defendant.

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TABLE OF CONTENTS

Subject	Page
Index of Authorities	-iii-
Statement of Jurisdiction	-vi-
Statement of Questions Presented	-vi-
Introduction	-1-
Statement of Facts	-3-
Procedural History	-5-

ISSUES PRESENTED BEFORE THIS HONORABLE COURT
FOR ADJUDICATION ON THE MERITS

ISSUE 1- DEFENDANT PRESENTS NEWLY DISCOVERED EVIDENCE THAT NOT ONLY SUPPORTS HIS CLAIM OF ACTUAL INNOCENCE, BUT EXPOSES THE EGREGIOUS CONDUCT OF THE POLICE AND OFFICERS OF THE COURT, TO THE EXTENT THAT RE-PROSECUTION IS BARRED -6-

ISSUE 2 - DEFENDANT WAS DENIED A FAIR TRIAL BY AND THROUGH THE PROSECUTION'S FAILURE OR REFUSAL TO SUPERVISE THE POLICE INVESTIGATION, AND OTHER GRIEVOUS ERRORS COMMITTED BY THE PROSECUTION AS REPORTED HEREIN, THE RESULT OF WHICH BARS RE-PROSECUTION -10-

ISSUE 3 - DEFENDANT WAS DENIED A FAIR TRIAL WHEN DEFENSE COUNSEL NEVER RAISED THE ISSUES HEREIN, AND OPERATED UNDER TWO CONFLICTS OF INTEREST, WHICH IS NOTHING LESS THAN ABANDONMENT AT THE CRITICAL PRE-TRIAL, TRIAL AND SENTENCING STAGES, THE RESULT OF WHICH IS STRUCTURAL ERROR AND WHICH REQUIRES AUTOMATIC REVERSAL -14-

ISSUE 4 - DEFENDANT WAS DENIED A FAIR TRIAL WHEN THE TRIAL COURT FAILED TO CONTROL THE PROCEEDINGS AS ENUMERATED HEREIN, THE RESULT OF WHICH PREJUDICED DEFENDANT TO THE EXTENT THAT RE-PROSECUTION IS BARRED -21-

ISSUE 5 - DEFENDANT WAS DENIED HIS RIGHT TO DUE PROCESS OF LAW WHEN APPELLATE COUNSEL FAILED TO MASTER THE LOWER COURT RECORD AND FAILED TO RAISE THE ISSUES PRESENTED HEREIN ON DEFENDANT'S APPEAL AS OF RIGHT -25-

TABLE OF CONTENTS (Con't.)

Subject	Page
ISSUE 6 - DEFENDANT WAS DENIED HIS FUNDAMENTAL PROTECTIONS TO A FAIR CRIMINAL PROCEEDING, BY AND THROUGH THE CUMULATIVE EFFECT OF ERRORS THAT TOOK PLACE AT THE HANDS OF OFFICERS OF THE COURT	-29-
ISSUE 7 - RELIEF FROM JUDGMENT SHOULD BE GRANTED WHERE DEFENDANT CAN ESTABLISH "GOOD CAUSE" AND "ACTUAL PREJUDICE" FOR NOT PROPERLY BRINGING THESE ISSUES BEFORE THIS HONORABLE COURT FOR ADJUDICATION ON THE MERITS	-33-
Notice of Compliance with the AEDPA Mandate	-35-
Conclusion	-36-
Relief Requested	-37-

INDEX OF AUTHORITIES

Citation	Page(s)
Abdur'Rahman v. Bell, 226 F.3d 696 (6th Cir. 2000)	.36
Anderson v. Sheppard, 856 F.2d 741 (6th Cir. 1988)	.23
Antoine v. Atlas Turner, Inc., 66 F.3d 105 (6th Cir. 1995)	.12, 24, 32
Avery v. Preslesnik, 524 F.Supp2d 903 (W.D. Mich. 2007)	16
Banks v. Bretke, 540 U.S. 668, 124 S.Ct. 1256, 137 L.Ed2d 1166 (2004)	.36
BCS Life Ins. Co. v. Commissioner of Ins., 152 Mich App 360; 393 NW2d 636 (1986)	.2
Bashford v. People,. 24 Mich 244 (1871)	22
Bell v. Cone, 535 U.S. 685, 122 S.Ct. 1843, 152 L.Ed2d 914 (2002)	14
Benoit v. Bock, 237 F.Supp2d 804 (E.D. Mich. 2003)	18
Berger v. United States, 295 U.S. 78, 55 S.Ct. 629, 79 L.Ed. 1314 (1935)	10,30
Bloss v. Williams, 15 Mich App 228; 166 NW2d 520 (1968)	11
Byrd v. Collins, 209 F.3d 486 (6th Cir. 2000)	36
California v. Trombetta, 467 U.S. 479, 104 S.Ct. 2528, 81 L.Ed2d 413 (1984)	18
Chambers v. Mississippi, 410 U.S. 284, 93 S.Ct. 1038, 35 L.Ed2d 297 (1973)	30
Clemmons v. Bruce, 122 Mich App 35; 329 NW2d 522 (1982)	22
Crampton v. Dept. of State, 395 Mich 347; 235 NW2d 352 (1975)	22
Crane v. Kentucky, 476 U.S. 683, 106 S.Ct. 2142, 90 L.Ed2d 636 (1986)	18
Cuyler v. Sullivan, 446 U.S. 335, 100 S.Ct. 1708, 64 L.Ed2d 333 (1980)	.17, 26
Fieger v. Cox, 274 Mich App 449; 734 NW2d 602 (2007)	.11
French v. Jones, 282 F.3d 893 (6th Cir. 2002)	20, 28, 33
Gauntlett v. Kelly, 658 F.Supp 1483 (W.D. Mich. 1987)	.9
Geders v. United States, 425 U.S. 80, 96 S.Ct. 1330, 47 L.Ed2d 592 (1976)	.21
General Dynamics Corp. v. United States, 139 F.3d 1280 (9th Cir. 1998)	.12
Gibson v. Sain, 979 F.Supp 557 (W.D. Mich. 1997)	.11
Groseclose v. Bell, 895 F.Supp 935 (M.D. Tenn. 1995)	.31
Hampton v. United States, 425 U.S. 1484, 96 S.Ct. 1646, 48 L.Ed2d 113 (1976)	.9
Hayes v. Brown, 399 F.3d 972 (9th Cir. 2005)	.12
Hebert v. Louisiana, 272 U.S. 312, 47 S.Ct. 103, 71 L.Ed. 270 (1926)	.30
Hicks v. Straub, 377 F.3d 538 (6th Cir. 2004)	.1, 35
Hill v. People, 16 Mich 351 (1868)	.23
Hodge v. Hurley, 426 F.3d 368 (6th Cir. 2005)	11, 15
In re Murchinson, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955)	23
In re Osborne, 230 Mich App 712; 584 NW2d 649 (1998)	.17
In re Way, 41 Mich 299; 1 NW 1021 (1879)	.22
Keeney v. Tamayo-Reyes, 504 U.S. 1, 112 S.Ct. 1715, 118 L.Ed2d 318 (1992)	.36
Kimmelman v. Morrison, 477 U.S. 365, 106 S.Ct. 2574, 91 L.Ed2d 305 (1986)	27
Klein v. Schwartz, 272 Mich App 232; 725 NW2d 671 (2006)	.22
Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed2d 490 (1995)	11
Lambrix v. Singletary, 520 U.S. 518, 117 S.Ct. 1517, 137 L.Ed2d 771 (1997)	.23
McCoy v. Court of Appeals of Wisconsin, Dist. 1, 486 U.S. 429, 108 S.Ct. 1895, 100 L.Ed2d 440 (1988)	.27
Marbury v. Madison, 5 U.S. 137 (1 Cranch) 2 L.Ed. 60 (1803)	2, 8, 13
Matthews v. Abramajtys, 92 F.Supp2d 615 (E.D. Mich. 2000)	27
Matthews v. BCBSM, 456 Mich 365; 572 NW2d 603 (1998)	.11
Matlock v. Rose, 731 F.2d 1236 (6th Cir. 1984)	.30
Mitchell v. Mason, 325 F.3d 732 (6th Cir. 2002)	14, 19

INDEX OF AUTHORITIES (Con'd.)

Citation — Page(s)

Northern Mariana Islands v. Bowie, 243 F.3d 1109 (9th Cir. 2001) 12
Osborne v. Shillinger, 861 F.2d 612 (10th Cir. 1988) 15, 20, 26
Penson v. Ohio, 488 U.S. 75, 109 S.Ct. 352, 102 L.Ed2d 300 (1988) 25
People v. Bahoda, 448 Mich 261; 531 NW2d 659 (1995) 10
People v. Brocato, 17 Mich App 277; 169 NW2d 483 (1969) 21
People v. Burwick, 450 Mich 281; 537 NW2d 813 (1995) 11
People v. Cain, 238 Mich App 95; 605 NW2d 28 (1999) 2
People v. Cress, 468 Mich 678; 664 NW2d 174 (2003) 1, 6
People v. Crofoot, 254 Mich 167; 235 NW 893 (1931) 16
People v. Bane, 59 Mich 550; 1216 NW 781 (1886) 10
People v. Daoust, 228 Mich App 1; 577 NW2d 179 (1998) 29
People v. DeMeyers, 183 Mich App 286; 454 NW2d 202 (1990) 11
People v. Dewey, 172 Mich App 367; 431 NW2d 517 (1988) 17
People v. Dixon, 263 Mich App 393; 668 NW2d 308 (2004) 14, 19
People v. Dye, 431 Mich 58; 427 NW2d 510 (1988) 11
People v. Ford, 417 Mich 661; 331 NW2d 878 (1982) 11, 36
People v. Gilliam, 108 Mich App 695; 318 NW2d 843 (1981) 2
People v. Ginther, 390 Mich 436; 212 NW2d 922 (1973) 16, 28, 36
People v. Gioglio, 2012 Mich App LEXIS 1673 (March 20, 2012) 2
People v. Guy, 118 Mich App 99; 324 NW2d 547 (1982) 2
People v. Hammock, 506 Mich 670; 946 NW2d 546 (2020) 7
People v. Hunter, 2003 Mich App LEXIS 2210 (September 11, 2003) 29
People v. Johnson, 502 Mich 541; 918 NW2d 676 (2018) 7
People v. Johnson, 58 Mich App 60; 227 NW2d 228 (1975) 16
People v. Joseph Johnson, 474 Mich 924; 706 NW2d 7 (2005) 5
People v. Joseph Johnson, 480 Mich 1119; 745 NW2d 768 (2008) 5
People v. Jones, 64 Mich App 659; 236 NW2d 531 (1975) 17
People v. Knapp, 244 Mich App 361; 624 NW2d 227 (2001) 29
People v. Lee, 391 Mich 618; 218 NW2d 655 (1974) 16
People v. Lester, 232 Mich App 262; 591 NW2d 267 (1998) 11
People v. McGinnis, 402 Mich 343; 262 Nw2d 669 (1978) 16
People v. Brent Marshall, 2020 Mich App LEXIS 2986 (April 23, 2020) 28
People v. Morris, 77 Mich App 561; 258 NW2d 559 (1977) 8, 12, 24
People v. Mott, 140 Mich App 289; 364 NW2d 696 (1985) 16
People v. Pettiford, 505 Mich 999; 939 NW2d 682 (2020) 7
People v. Pfaffle, 246 Mich App 282; 632 NW2d 162 (2001) 10
People v. Phifer, 66 Mich App 11; 238 NW2d 188 (1975) 16
People v. Rhinehart, 70 Mich App 390; 245 NW2d 763 (1976) 23
People v. Robinson, 386 Mich 551; 194 NW2d 709 (1972) 21
People v. Skowronski, 61 Mich App 71; 232 NW2d 306 (1975) 29
People v. Smith, 363 Mich 157; 108 NW2d 751 (1961) 29
People v. Smith, 456 Mich 543; 581 NW2d 654 (1998) 17
People v. Smith, 158 Mich App 220; 405 NW2d 156 (1987) 30, 31
People v. Stevens, 498 Mich 162; 869 NW2d 233 (2015) 23
People v. Strodder, 394 Mich 193; 229 NW2d 318 (1975) 19
People v. Tait, 99 Mich App 19; 297 NW2d 853 (1980) 8, 12, 24
People v. Thompson, 69 Mich App 465; 245 Nw2d 93 (1973) 26
People v. Timmons, 300 Mich 653; 2 NW2d 804 (1942) 16
People v. Whyte, 165 Mich App 409; 418 NW2d 484 (1988) 36
People v. Williams, 391 Mich 832 (1974) 7
People v. Wynn, 386 Mich 627; 194 NW2d 354 (1972) 27

INDEX OF AUTHORITIES (Con't.)

Citation	Page(s)
Riley v. Jones, 476 F.Supp2d 696 (E.D. Mich. 2007)	1
Rochin v. California, 342 U.S. 165, 72 S.Ct. 205, 96 L.Ed. 183 (1952)	passim
Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed2d 985 (2000)	25
Satterwhite v. Texas, 486 U.S. 249, 108 S.Ct. 1792, 100 L.Ed2d 284 (1988)	25
Schlup v. Delo, 513 U.S. 298, 115 S.Ct. 851, 130 L.Ed2d 808 (1995)	27
Smiddy v. Varney, 803 F.2d 1469 (9th Cir. 1986)	12
Spriggs v. Collins, 993 F.2d 85 (5th Cir. 1993)	19
Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 12052, 80 L.Ed2d 674 (1984)	14, 16, 18
Trayer v. Kent Co. Sheriff, 104 Mich App 32; 304 NW2d 11 (1981)	13
Tucker v. Renico, 317 F.Supp2d 766 (E.D. Mich. 2004)	1
U of M Regents v. Emp. Rel. Comm., 38 Mich App 55; 195 NW2d 66 (19791)	24
United States v. Adams, 722 F.3d 788 (6th Cir. 2013)	29
United States v. Alexander, 948 F.2d 1002 (6th Cir. 1991)	8, 34
United States v. Barger, 931 F.2d 359 (6th Cir. 1991)	8, 9
United States v. Cronic, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed2d 657 (1984)	passim
United States v. Kerley, 784 F.2d 327 (6th Cir. 2015)	18
United States v. Swanson, 943 F.2d 1070 (9th Cir. 1991)	19, 20
Whiting v. Burt, 395 F.3d 602 (6th Cir. 2005)	18
Williams v. Taylor, 529 U.S. 362, 120 S.Ct. 1495, 146 L.Ed2d 389 (2000)	35
Williams v. Taylor, 529 U.S. 420, 120 S.Ct. 1479, 146 L.Ed2d 435 (2000)	36
Workman v. Tate, 957 F.2d 1339 (6th Cir. 1992)	20, 26

OTHER AUTHORITY

U.S. Const. Ams. V, VI, XIV	passim
Mich. Const. 1963, art. 1, §§ 17, 20	passim
Mich. Const. 1963, art. 7, § 4	12
MCL 49.153	12
MCL 768.20	6, 12, 15
MCL 768.29	21
MCR 2.113(F)(2)	1
MCR 6.500, et seq.	1
MCR 6.502(G)(2)	34
MCR 6.504(B)	7
MCR 6.504(B)(2)	8
MCR 6.505(A)	36, 37
MCR 6.507(A)	36, 37
MCR 6.508(B)	8
MCR 6.508(C)	36, 37
MCR 6.508(D)(3)(iii)	2, 10, 34
MCR 6.508(D)(3)(a)	33
MCR 6.508(D)(3)(b)(i), (iii)	33
MRE 201	1
MRE 202	1

STATEMENT OF JURISDICTION

This Honorable Court has jurisdiction to adjudicate the ISSUES presented herein on the merits pursuant to MCR 6.500, et seq.

STATEMENT OF QUESTIONS PRESENTED

ISSUE 1

DOES DEFENDANT PRESENT NEWLY DISCOVERED EVIDENCE THAT NOT ONLY SUPPORTS HIS CLAIM OF ACTUAL INNOCENCE, BUT EXPOSES THE EGREGIOUS CONDUCT OF THE POLICE AND OFFICERS OF THE COURT, TO THE EXTENT THAT RE-PROSECUTION IS BARRED?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

ISSUE 2

WAS DEFENDANT DENIED A FAIR TRIAL BY AND THROUGH THE PROSECUTION'S FAILURE OR REFUSAL TO SUPERVISE THE POLICE INVESTIGATION, AND OTHER GRIEVOUS ERRORS COMMITTED BY THE PROSECUTION AS REPORTED HEREIN, THE RESULT OF WHICH BARS RE-PROSECUTION?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

ISSUE 3

WAS DEFENDANT DENIED A FAIR TRIAL WHEN DEFENSE COUNSEL NEVER RAISED THE ISSUES HEREIN, AND OPERATED UNDER TWO CONFLICTS OF INTEREST, WHICH IS NOTHING LESS THAN ABANDONMENT AT THE CRITICAL PRE-TRIAL, TRIAL AND SENTENCING STAGES, THE RESULT OF WHICH IS STRUCTURAL ERROR AND WHICH REQUIRES AUTOMATIC REVERSAL?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

ISSUE 4

WAS DEFENDANT DENIED A FAIR TRIAL WHEN THE TRIAL COURT FAILED TO CONTROL THE PROCEEDINGS AS ENUMERATED HEREIN, THE RESULT OF WHICH PREJUDICED DEFENDANT TO THE EXTENT THAT RE-PROSECUTION IS BARRED?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

ISSUE 5

WAS DEFENDANT DENIED HIS RIGHT TO DUE PROCESS OF LAW WHEN APPELLATE COUNSEL FAILED TO MASTER THE LOWER COURT RECORD AND FAILED TO RAISE THE ISSUES PRESENTED HEREIN ON DEFENDANT'S APPEAL AS OF RIGHT?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

ISSUE 6

WAS DEFENDANT DENIED HIS FUNDAMENTAL PROTECTIONS TO A FAIR CRIMINAL PROCEEDING, BY AND THROUGH, THE CUMULATIVE EFFECT OF ERRORS THAT TOOK PLACE AT THE HANDS OF THE OFFICERS OF THE COURT?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

ISSUE 7

SHOULD RELIEF FROM JUDGEMENT BE GRANTED WHERE DEFENDANT CAN ESTABLISH "GOOD CAUSE" AND "ACTUAL PREJUDICE" FOR NOT PROPERLY BRINGING THESE ISSUES BEFORE THIS HONORABLE COURT FOR ADJUDICATION ON THE MERITS?

Defendant answers "YES"
The Prosecution has yet to answer
This Honorable Court has yet to make a determination

INTRODUCTION

Defendant presents this Motion for Relief from Judgment pursuant to MCR 6.500 et seq., which is based in part on newly discovered evidence that was never presented before Defendant's Jury. Thus, Defendant presents this evidence as newly discovered under the standard espoused in People v. Cress, infra, and as outlined and argued in ISSUE 1 of this pleading.

The rremaining issues (ISSUES 2 through 7), inclusive, are submitted herein for adjudication on the merits pursuant to the doctrines espoused in Hicks v. Straub, 377 F.3d 538, 558 (6th Cir. 2004), Riley v. Jones, 476 F.Supp2d 696, 707 (E.D. Mich. 2007), and Tucker v. Renico, 317 F.Sup2d 766, 773 (E.D. Mich. 2004). These cases hold that State collateral review was the first opportunity that Defendant had to raise his claims under the new circumstances of his case.

Defendant asks this Honorable Court to consider facts that were never revealed in any prior proceeding. Defendant submits that the errors reported herein, and the cumulative effect of those errors, resulted in manifest injustice.

These errors are reported in Defendant's Affidavit and is attached to this pleading as EXHIBIT "A," along with other evidence being EXHIBITS "B" through "K," inclusive. Defendant submits that these unreported facts are admissible under MCR 2.113(F)(2) and asks this Honorable Court to take judicial notice of this under MRE 201 and MRE 202.

Defendant submits that his Affidavit and supporting evidence will expose the prejudice that attached to his criminal proceedings to his detriment and which denied him of fundamental fairness.

Defendant begins with his own Affidavit as EXHIBIT "A," which outlines

the errors that took place during his criminal trial; not to mention Defense Counsel's two (2) conflicts of interest that she operated on during her legal representation, which is outlined in Defendant's Affidavit.

Defendant continues with the bogus Complaint and Warrant for Defendant's arrest, where Detective Bozek never had an Affidavit, and which was based on a false and fabricated story that never manifested itself at Defendant's criminal trial. The story told to the Magistrate was so elaborate that it implicated Defendant as being hired as a hitman or who was enlisted to hire a hitman. See District Court Transcript dated February 22, 2017 as EXHIBIT "J," and Scott Lewis Mischnick's Affidavit dated November 30, 2023 as EXHIBIT "K."

The sad part here is that Defense Counsel knew the Complaint and Arrest Warrant was bogus. This is because Defense Counsel had in her possession the Affidavit of Amir A. Rider, which was Defendant's alibi witness and is submitted as EXHIBIT "B."

The cell phone issue ISSUE "E," that created a remand from the Court of Appeals should never have happened in the first place. See Evidentiary Hearing Transcript dated November 21, 2018 as EXHIBIT "G," See also Scott Lewis Mischnick's Affidavit as EXHIBIT "C," where Defense Counsel equated the cell phone data and the confiscation of the cell phone as being one in the same. Even though the Court of Appeals upheld the Trial Court's ruling that exigent circumstances existed, that Court and the Supreme Court never had the complete story as illustrated in the pleading that is currently before this Honorable Court.

Defendant refers to the Affidavit of Lawrence Rider-El as EXHIBIT "I." Lawrence's Affidavit spells out the fact that he had possession of the cell phone before, during and after the murder, and that Lawrence was in

communucation with Marcie Griffin; not Defendant. This negates any involvement by Defendant as Detective Bozek alleged in his bogus Complaint and Warrant for Defendant's arrest.

What is troubling here is the fact that Defense Counsel had this information and proffered to the Jury that there would be witnesses testifying on Defendant's behalf. See Jury Trial Transcript dated March 26, 2019, p. 210 as EXHIBIT "F."

To the detriment of Defendant, Defense Counsel never called any of the witnesses to testify. Thus, the Jury never heard what this Honorable Court now sees in this very pleading. There can be no doubt that their testimonies would have changed the outcome of the trial.

Moreover, Defense Counsel never filed a Notice of Alibi as mandated by MCL 768.20. This in and of itself is fatal and is illustrative of Defense Counsel's abandonment of legal representation.

There came a point in Defense Counsel's representation where Defendant finally had enough and requested a Ginther Hearing. The reason is simple, there were irreconcilable differences that could not be resolved. To Defendant's dismay, the Trial Court refused. See Trial Transcript dated March 26, 2019, pages 10 and 11 as EXHIBIT "D."

Of course, this Honorable Court always has the option to order and evidentiary hearing in light of the unreported facts submitted herein, and Defendant asks this Honorable Court to take this new information into consideration when determining its relief in this matter.

Defendant respectfully submits that review is not precluded where serious Due Process violations are alleged. People v. Cain, 238 Mich App 95, 108; 605 NW2d 28 (1999), lv pending, citing People v. Gilliam, 108 Mich App 695, 698; 318 NW2d 843 (1981).

See also, MCR 6.508(D)(3)(iii), which holds:

> "In any case, the irregularity was so offensive to the maintenance of a sound judicial process that the conviction should not be allowed to stand regardless of its effect on the outcome of the trial."

This Honorable Court has the ability to grant relief based on manifest injustice pursuant to the mandates of BCS Life Ins. Co. v. Commissioner of Ins., 152 Mich App 360; 393 NW2d 636 (1986), People v. Guy, 118 Mich App 99; 324 NW2d 547 (1982), and People v. Gioglio, 2012 Mich App LEXIS 1673 (March 20, 2012), amended, 296 Mich App 12; 815 NW2d 589 (2012), vacated in part, 493 Mich 864; 820 NW2d 922 (2012).

Defendant respectfully submits that these mandates and authority mirror the doctrine of fundamental fairness as espoused in Rochin v. California, 342 U.S. 165, 169, 72 S.Ct. 205, 96 L.Ed 183 (1952).

As such, Defendant respectfully submits these issues before this Honorable Court for an adjudication on the merits to cure a manifest injustice that has plagued Defendant from the inception of his criminal case.

Moreover, the relief requested is guilded by the well-settled case of Marbury v. Madison, 5 U.S. 137, 163 (1 Cranch) 2 L.Ed. 60, 69 (1803). There, the Court held that for every injury, there is a remedy by law. Based on that doctrine, when this Honorable Court has reviewed all the new unreported facts presented herein, and incorporates it into the existing facts of his case, Defendant prays that this Honorable Court will determine the appropriate remedy.

STATEMENT OF FACTS

This case stems from the January 13, 2017 murder of Juli Johnson. Co-Defendant Marcie Griffin initially was identified as a suspect because of the extreme hostility she exhibited toward Johnson and Johnson's current boyfriend, James Lattner, who was Griffin's ex-boyfriend. Griffin's cell phone records indicated that she had communicated with a phone number ending with 4616 the evening before the murder and in the morning after the shooting.

Interested in who was using the 4616 phone and what information that phone contained, the police obtained a warrant on January 27, 2017. That warrant only authorized the retrieval of records from the cell-phone provider; it did not authorize the physical seizure of the phone itself.

During the Trial Court proceedings, Defense Counsel agreed that the January 27, 2017 warrant authorized the phone's physical seizure when the Police encountered the Defendant on February 4, 2017.

The Court of Appeals determined the Defense Counsel was ineffective for taking the position that the seizure was legal. On remand, the Trial Court conducted the evidentiary hearing. Only two witnesses testified: Sergeant Brandon Roy and now Lieutenant Charles Rushton. Their testimony was consistent with the evidence adduced at trial.

What was not revealed at the Evidentiary Hearing was Detective Bozek's reasoning for the arrest warrant. The Detective's motives were based on a falsehood which never manifested itself at trial. The Detective's involvement is outlined and argued in ISSUE 2 of this pleading.

Defense Counsel committed gross error when it determined that cell phone information and the seizure of a cell phone was one in the same. Defense Counsel's gross errors are outlined and discussed in ISSUE 3.

The seized cell phone turned out to be a company phone with multiple users. The Affidavit of Lawrence Rider-El outlines that Defendant was not in possession of the cell phone before, during and just after the murder. Sadly, Mr. Rider-El's testimony was never presented to the Jury.

The Prosecution purposely excluded the testimony of Detective Bozek and his bogus story to obtain the arrest warrant. And, Officer Roy's reasoning to confiscate the cellphones was based on a fabricated exigent circumstance that did not exist. This was a deliberate and intentional act to bring evidence in the back door which is otherwise inadmissible through the front door. The Prosecutor's misconduct is outlined and argued in ISSUE 2 of this pleading.

Based on incomplete and inaccurate information supplied by the Prosecution, the Trial Court issued an opinion and order ruling that exigent circumstances did exist and absolved Defense Counsel of all wrong.

The Appellate Courts, being denied all the facts, rubber stamped the Trial Court's ruling.

Defendant respectfully submits that he is actually and factually innocent of the charges lodged against him and continues to suffer from manifest injustice as a result of the violations of Due Process of Law that has plagued his criminal case from the beginning.

Had Defendant's alibi witness been allowed to testify, the results of the trial would have been different. Again, Defense Counsel's gross errors are outlined and argued in ISSUE 3 of this pleading.

PROCEDURAL HISTORY

Upon conviction and sentencing, Defendant, by and through Appellate Counsel, filed Defendant's Right of Appeal in the Michigan Court of Appeals. The case was remanded for an Evidentiary Hearing. Due to Defense Counsel's abandonment, the Prosecution staged the remand in that the key witness, one Detective Bozek did not testify. This was problematic in that Bozek's request for the arrest warrant was based on a fabricated story that never manifested itself in the trial. Needless to say, the Higher Courts affirmed Defendant's conviction.

Defendant filed multiple pleadings in the State Courts to no avail. The reasoning for this is because Defendant is innocent, and but for Defense and Appellate Counsels abandonment, the Defendant would have been exonerated.

Defendant supports his multiple filings under the auspices of the cases of People v. Joseph Johnson, 474 Mich 924, 924; 706 NW2d 7 (2005) and People v. Joseph Johnson, 480 Mich 1119, 1121; 745 NW2d 768 (2008). These cases outline the fact that multiple filings were made to cure a manifest injustice; where as here, Defendant stands by his declaration of actual innocence.

It should be noted that Defendant did not take this matter to the Federal Courts.

ISSUE 1

DEFENDANT PRESENTS NEWLY DISCOVERED EVIDENCE THAT NOT ONLY SUPPORTS HIS CLAIM OF ACTUAL INNOCENCE, BUT EXPOSES THE EGREGIOUS CONDUCT OF THE POLICE AND OFFICERS OF THE COURT, TO THE EXTENT THAT RE-PROSECUTION IS BARRED

STANDARD OF REVIEW

The applicable standard of review for newly discovered evidence is found in the case of People v. Cress, 468 Mich 678, 692; 664 NW2d 174 (2003). There, the Court held that a criminal defendant was required to establish that: (1) the evidence itself, not merely its materiality, was newly discovered; (2) the newly discovered evidence was not cumulative; (3) the party could not, using reasonable diligence, have discovered and produced the evidence at trial; and (4) the new evidence makes a different result probable on retrial.

ARGUMENT

Defendant was denied a fair criminal proceeding as guaranteed under both State and Federal Constitutions. [Mich. Const. 1963, art. 1, §§ 17, 20; U.S. Const. Ams. V, VI, XIV]. This vested right, which is afforded all criminal defendants, was denied Defendant by and through the egregious conduct of the Police and Officers of the Court which the four (4) Affidavits and five (5) ancillary exhibits attest to and which are the reason for this submission. It should be noted that the Affidavit of Amir A. Rider, being EXHIBIT "B," is an alibi witness. Sadly, Defense Counsel never filed a Notice of Alibi pursuant to MCL 768.20.

The remaining Affidavits and Exhibits are all outlined and artticulated in Defendant's Affidavit as EXHIBIT "A." It should be noted that Defendant's Jury never heard the evidence presented herein. Thus, when considering the new evidence with the existing record, there is every likelihood that the verdict would have been different.

That said, it is well settled that a Trial Court's role, however, is limited

to reviewing the newly discovered evidence because the Trial Court is not the ultimate fact-finder; the Jury is. People v. Johnson, 502 Mich 541, 567; 918 NW2d 676 (2018). Accordingly, this Honorable Court must determine whether a reasonable juror could find that the new testimony was credible on retrial. Id, at 568. However, if a witness is not patently incredible, the Trial Court must make its credibility determination on the basis of what a reasonable juror would find, rather than what the Trial Court would find. Id., at 568.

Defendant respectfully submits that should this Honorable Court have any misgivings as to the credibility of the three (3) new witnesses and Defendant's Affidavit; which outlines facts never disclosed to either his Jury or the Court at the time of trial, an evidentiary hearing is in order under People v. Hammock, 506 Mich 670; 946 NW2d 546, 547 (2020), (Cavanagh, J., concurring), who agreed that an evidentiary hearing was appropriate on a claim of newly discovered evidence when the defendant's offer of proof identified evidence, that, if believed, would raise serious concerns about his conviction.

Moreover, Defendant refers to the case of People v. Williams, 391 Mich 832, 832 (1974), where the Court opined that should this Court find issues in dispute, then an evidentiary hearing is required. See also People v. Pettiford, 505 Mich 999; 939 NW2d 682, 682-683 (Mich, 2020), holding same.

Defendant respectfully submits that since Defendant's Motion for Relief from Judgment Based on Newly Discovered Evidence is before the Court, it is incumbent on this Honorable Court to promptly examine the Motion, together with all the files, records, transcripts and correspondence related to the judgment under the mandate of MCR 6.504(B).

Defendant respectfully submits that the entire pleading is ripe with misconduct at the hands of the Officers of the Court, the result of which is manifest injustice. As such, Defendant submits that fundamental fairness seems to

have been forgotten in his criminal proceeding in violation of the Due Process Clause of the Fifth Amendment. United States v. Barger, 931 F.2d 359, 361 (6th Cir. 1991). This is especially true in Defendant's case in that he has never faltered from his position that he is innocent of crimes he was found guilty of under the mandate of United States v. Alexander, 948 F.2d 1002, 1004 (6th Cir. 1991).

For the reasons argued herein and articulated throughout his pleading, Defendant respectfully submits that an evidentiary hearing is necessary under MCR 6.504(B)(2) and MCR 6.508(B) to not only make a record and to resolve any disputed facts, but more importantly, to allow those who submitted Affidavits to testify. Defendant submits that their testimony, along with all remaining EXHIBITS and arguments herein will "fill-in" the gaps that currently exist in his case. In that regard, only then can a proper determination be made by this Honorable Court as to the appropriate relief to be granted under the auspices of Marbury v. Madison, 5 U.S. 137, 163 (1 Cranch) 2 L.Ed. 60, 69 (1803).

Lastly, Defendant respectfully submits that when this newly discovered evidence, when taken in concert with the existing evidence, and added to the issues presented herein, it will paint a picture of manifest injustice at the hands of the Police and Officers of the Court to the extent that re-prosecution is barred.

This is not a case where the prosecution tried to control the egregious conduct of the Police as in the case of People v. Morris, 77 Mich App 561, 563-564; 258 NW2d 559 (1977). Quite the contrary. The Prosecution was equally guilty of the egregious conduct that deprived Defendant of a fair criminal proceeding; even though it was not until post-conviction that the conduct was exposed.

This type of misconduct by the Police and the Prosecution was addressed in People v. Tait, 99 Mich App 19, 28-29; 297 NW2d 853 (1980). There, the Court held

that due to the level of prosecutorial misconduct, a dismissal of the case was ordered and re-prosecution barred. See also Gauntlett v. Kelly, 658 F.Supp 1483, 1498-1499 (W.D. Mich, 1987), holding same. See further, United States v. Barger, 931 F.2d 359, 363 (6th Cir. 1991), where the Court, relying on Hampton v. United States, 425 U.S. 1484, 96 S.Ct. 1646, 48 L.Ed2d 113 (1976), opined that some police misconduct might be so egregious as to violate the accused's due process rights.

As such, Defendant respectfully submits that his case is on all fours with the Hampton case, and is fully outlined and argued in ISSUE 2 and ripe for adjudication by this Honorable Court.

ISSUE 2

DEFENDANT WAS DENIED A FAIR TRIAL BY AND THROUGH THE PROSECUTION'S FAILURE OR REFUSAL TO SUPERVISE THE POLICE INVESTIGATION AND OTHER GRIEVOUS ERRORS COMMITTED BY THE PROSECUTION AS REPORTED HEREIN, THE RESULT OF WHICH BARS RE-PROSECUTION

STANDARD OF REVIEW

The applicable standard of review is de novo, and is found in People v. Pfaffle, 246 Mich App 282, 288; 632 NW2d 162 (2001), and in People v. Bahoda, 448 Mich 261, 267; 531 NW2d 659 (1995). See also, Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 633, 79 L.Ed. 1314 (1935), and People v. Dane, 59 Mich 550, 552; 26 NW 781 (1886).

These cases all stand for the proposition that the Prosecutor has an obligation to ensure that criminal defendants are afforded a fair criminal proceeding. The Prosecutor must also protect the interests of the People at the same time. This mandate ensures that the criminal justice system maintains its integrity. This is so because prosecutors must not engage in unfair tactics to gain an advantage of the criminal defendant.

ARGUMENT

Defendant was denied a fair criminal proceeding by and through the violation of his right to Due Process protections as guaranteed under both State and Federal Constitutions. [Mich. Const. 1963, art. 1, §§ 17, 20; U.S. Const. Ams. V, VI, XIV]. This vested right, which is afforded all criminal defendants, was denied Defendant by the Prosecution's deliberate misconduct as reported herein.

The misconduct conducted by the Police and the Prosecution is outlined and articulated in Defendant's Affidavit as EXHIBIT "A," and supported by the ancillary EXHIBITS as part of this Motion. The effect of this misconduct resulted in manifest injustice which this Honorable Court has authority to correct under MCR 6.508(D)(3)(iii) which was discussed in Defendant's INTRODUCTION to this

Motion. This Honorable Court must also be reminded that Defendant is innocent of the crime lodged against him, and but for the misconduct of the Officers of the Court, Defendant would have been exonerated.

As the Chief Law Enforcement Office of the County, Matthews v. BCBSM, 456 Mich 365, 384; 572 NW2d 603 (1998), People v. Ford, 417 Mich 66, 92; 331 NW2d 878 (1982), the Prosecutor had a duty to investigate Defendant's case. Bloss v. Williams, 15 Mich App 228, 233; 166 NW2d 520 (1968), Fieger v. Cox, 274 Mich App 449, 468; 734 NW2d 602 (2007), and Gibson v. Sain, 979 F.Sup 557, 566 (W.D. Mich. 1997). This mandate also included the Prosecutor's duty to supervise all police investigations prior to the preferring of charges against a defendant. People v. Lester, 232 Mich App 262, 279-280; 591 NW2d 267 (1998), People v. Burwick, 450 Mich 281, 289 n.10; 537 NW2d 813 (1995), and Kyles v. Whitley, 514 U.S. 419, 437, 115 S.Ct. 1555, 131 L.Ed2d 490 (1995).

Observing that Defense Counsel had abandoned legal representation of Defendant to the point of sabotage, the Prosecution was free to sit back and violate Defendant's Constitutional rights and protections as occurred in Hodge v. Hurley, infra.

This fact is evidenced by and through Defendant's Affidavit (EXHIBIT "A") and supporting evidence, that exposes the egregious misconduct of the Prosecution, coupled with the misconduct of the remaining Officers of the Court as outlined and argued throughout this Motion.

Defendant submits that only an evidentiary hearing will reveal the taint that took place throughout Defendant's trial at the hands of the Prosecution.

It is well-settled that if law enforcement fails to perform their duty, that error falls upon the Prosecution. People v. DeMeyers, 183 Mich App 286, 293; 454 NW2d 202 (1990), and People v. Dye, 431 Mich 58, 77; 427 NW2d 510 (1988). As such, the Prosecution had a duty to oversee the Police investigation.

It is also well-settled that the Prosecution had a duty to ensure that the Police investigation was "lawfully" conducted. Smiddy v. Varney, 803 F.2d 1469, 1472 (9th Cir. 1986), and General Dynamics Corp. v. United States, 139 F.3d 1280, 1283 (9th Cir. 1998).

Defendant maintains that this action by the Prosecution was nothing less than repugnant as argued in Hayes v. Brown, 399 F.3d 972, 981 (9th Cir. 2005), and Northern Mariana Islands v. Bowie, 243 F.3d 1109, 1114 (9th Cir. 2001), where the Court held that this type of conduct exemplified the maxim, "the end justifies the means," was a concept that was incompatible with this Country's Constitutional concept of ordered liberty as espoused in Rochin v. California, 342 U.S. 165, 169, 72 S.Ct. 205, 96 L.Ed. 183 (1952).

The Prosecution, as an elected official, had both a Constitutional and Statutory Duty to ensure that Defendant's rights were protected. [Mich. Const. 1963, art. 7, § 4; MCL 49.153]. Instead, the Prosecution did nothing.

The evidence supporting Defendant's claims are found in EXHIBIT "A," and other evidence. This evidence Defendant speaks of in particular is his alibi witness, Amir A. Rider. Sadly, Defense Counsel never filed a Notice of Alibi under MCL 768.20, and Amir never testified to the facts outlined in his Affidavit as EXHIBIT "B." Just Amir's testimony along would further reveal that Defendant's criminal case was plagued with misconduct from the beginning. Thus, Defendant's liberty was taken in a manner inconsistent with Due Process of Law. Antoine v. Atlas Turner, Inc., 66 F.3d 105, 108 (6th Cir. 1995).

As outlined and argued in ISSUE 1, under People v. Tait, supra and People v. Morris, supra, re-prosecution is barred.

Most problematic here is the falsehood committed by Officer Brandon Roy to acquire a search warrant to locate cell phone data believed to be pertinent to the murder. The information provided by Officer Barndon Roy was a fabrication, no

different from the fabrication committed by Detective Bozek to obtain an arrest warrant. See in particular the Affidavit of Scott Lewis Mischnick as EXHIBIT "C," the Search Warrant as EXHIBIT "E," and the Evidentiary Hearing Transcript as EXHIBIT "G."

All that Officer Brandon Roy claimed, and all that Detective Bozek claimed, did not come into play and all their theories never materialized at trial

Even more problematic here is the fact that the Trial Court ignored these facts and sided with the Police and the Prosecution. This bias is outlined and argued in ISSUE 4.

Defendant will close this ISSUE with the following admonition from the case of Trayer v. Kent Co. Sheriff, 104 Mich App 32; 304 NW2d 11 (1981), where the Court opined:

> "Our system of criminal justice is not a game. It is a process by which those rights and liberties that we hold dear are insured and safeguarded against unwarranted state intrusion. Any action by a segment of our law enforcement statement that calls into question its own integrity and good faith will in turn demean the integrity and good faith of the entire system." Id., at 36.

Based on this position, Defendant respectfully asks this Honorable Court, to take that matter into consideration when rendering the appropriate relief under the auspices of Marbury v. Madison, supra.

ISSUE 3

DEFENDANT WAS DENIED A FAIR TRIAL WHEN DEFENSE COUNSEL NEVER RAISED THE ISSUES HEREIN, AND OPERATED UNDER TWO CONFLICTS OF INTEREST, WHICH IS NOTHING LESS THAN ABANDONMENT AT THE CRITICAL PRE-TRIAL, TRIAL AND SENTENCING STAGES, THE RESULT OF WHICH IS STRUCTURAL ERROR AND WHICH REQUIRES AUTOMATIC REVERSAL

STANDARD OF REVIEW

The applicable standard of review for the constructive denial of counsel throughout a defendant's criminal proceedings is found in People v. Dixon, 263 Mich App 393, 397, 400; 668 NW2d 308 (2004), which adopted Bell v. Cone, 535 U.S. 685, 695-696, 122 S.Ct. 1843, 152 L.Ed2d 914 (2002); United States v. Cronic, 466 U.S. 648, 659, 104 S.Ct. 2039, 80 L.Ed2d 657 (1984), and Mitchell v. Mason, 325 F.3d 732, 743 (6th Cir. 2003).

Defendant submits that since he falls under the Cronic standard rather than the Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed2d 674 (1984), two-prong test standard, prejudice under Cronic is presumed. Nevertheless, Defendant will demonstrate why a presumption of prejudice controls the circumstances of his case by and through the following argument.

ARGUMENT

Defendant was denied his constitutional right to legal representation throughout his entire criminal proceeding. This abandonment of counsel is contrary to the rights and protections afforded criminal defendants under both State and Federal Constitutions. [Mich. Const. 1963, art. 1, §§ 17, 20; U.S. Const. Ams. V, VI, XIV]. These rights and protections which are afforded all criminal defendants, were denied Defendant by Defense Counsel's abandonment as outlined and argued herein.

In the interest of brevity, Defendant submits that the issues presented herein illustrate the fact that Defense Counsel abandoned Defendant from the beginning of his legal representation. Defendants' Affidavit attached as EXHIBIT

"A," and supporting EXHIBITS "B through I," inclusive, outline many of the errors that Defendant brought to the attention of Defense Counsel who did absolutely nothing to protect Defendant.

In addition, Defendant brings to the attention of this Honorable Court the remaining EXHIBITS that all support Defendant's claims of egregious misconduct at the hands of the Officers of the Court.

The record is clear that Defense Counsel never challenged, nor objected to the Prosecution's misconduct. This in and of itself is violative of the precepts of Hodge v. Hurley, 426 F.3d 368 (6th Cir. 2005), where the Court held:

> "When a prosecutor does act unfairly, there is little a defendant can do other than to rely on his or her attorney to lodge an appropriate and timely objection. A failure to make such an objection can have devastating consequences for an individual defendant. Accordingly we have previously held that a failure to object to prosecutorial misconduct can amount to ineffective assistance of counsel. See, e.g., Gravley v. Mills, 87 F.3d 779, 785-786 (6th Cir. 1996); Rachel v. Bordenkircher, 590 F.2d 200, 204 (6th Cir. 1978). We hold that ... trial counsel was constitutionally ineffective for failing to object to egregious misconduct." Id., at 377, 389.

Simply put, the Prosecution dropped the ball and Defendant paid the price. The fact that Defense Counsel sat back and did nothing as well, did not help, but only exacerbated Defendant's situation.

Defendant had no choice but to trust that Defense Counsel was protecting his Due Process rights. Defendant's situation is strikingly similar to that of Osborn v. Shillinger, 861 F.2d 612 (10th Cir. 1988), where the Court, relying on United States v. Cronic, supra, opined:

> "Whether the attorney is influenced by loyalties to other defendants, third parties, or the government, if he entirely fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of sixth amendment rights." Id., at 625.

Defense Counsel failed in its duty to file a Notice of Alibi under MCL 768.20. Significant here is the fact that one of the witnesses who proffered his

Affidavit, one Amir A. Rider, whose Affidavit is EXHIBIT "B," is an alibi witness, and sadly, one who never testified at Defendant's trial.

Amir A. Rider's Affidavit establishes that the Defendant was taking his son to school in Detroit, Michigan when the crime occurred.

It is well settled that the sole purpose of alibi testimony is to place the Defendant somewhere else than the crime scene. People v. Mc Ginnis, 402 Mich 343; 262 NW2d 669 (1978), People v. Mott, 140 Mich App 289; 364 NW2d 696 (1985), and People v. Gillman, 66 Mich App 419; 239 NW2d 396 (1976).

Moreover, considering the remaining Affidavits, the testimony in support of alibi, need accomplish no more than raise reasonable doubt of Defendant's presence at time and place of commission of crime. People v. Lee, 391 Mich 618; 218 NW2d 655 (1974), and alibi testimony may also be considered by the Jury for purpose of raising reasonable doubt on all evidence. People v. Phifer, 66 Mich App 11; 238 NW2d 188 (1975), People v. Johnson, 58 Mich App 60; 227 NW2d 228 (1975).

It is well settled that if the testimony supporting an alibi accomplished no more than to create a reasonable doubt, the Defendant is entitled to an acquittal. People v. Crofoot, 254 Mich 167, 168; 235 NW 883 (1931), People v. Timmons, 300 Mich 653, 659; 2 NW2d 804 (1942).

As such, but for Defense Counsel's unprofessional errors, the result of the proceeding would have been different. Avery v. Preslesnik, 524 F.Supp2d 903, 909 (W.D. Mich. 2007), relying on Strickland v. Washington, 466 U.S. 668, 694, 104 S.Ct. 2052, 80 L.Ed2d 674 (1984).

For reasons unknown to Defendant, and which can only be determined from an evidentiary hearing pursuant to People v. Ginther, infra, perhaps, only then can Defendant discover why Defense Counsel chose to abandon Defendant throughout his criminal proceedings.

Defendant was further prejudiced by two (2) conflicts of interest as

outlined and articulated in Defendant's Affidavit as EXHIBIT (A).

In People v. Smith, 456 Mich 543; 581 NW2d 654 (1998), the Court held:

> "In order to demonstrate that a conflict of interest has violated his Sixth Amendment rights, a defendant must establish that an actual conflict of interest adversely affected his lawyer's performance. Cuyler v. Sullivan, 446 U.S. 335, 350, 100 S.Ct. 1708, 64 L.Ed2d 333 (1980). If a convicted defendant believes that his attorney's representation was below an objective standard of reasonableness, the appropriate procedure is to seek a Ginther Hearing. People v. Ginther, 390 Mich 436; 212 NW2d 922 (1973)." Id., at 556-557.

In People v. Jones, 64 Mich App 659; 236 NW2d 531 (1975), the Court held:

> "A conflict of interest on the part of a defense attorney may deprive a defendant of his right to counsel. Glasser v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed 680 (1942), People v. Gardner, 385 Mich 392; 189 NW2d 229 (1971)." Id., at 667.

In People v. Dewey, 172 Mich App 367; 431 NW2d 517 (1988), the Court held:

> "Both the Federal and State Constitutions, U.S. Const. Am XIV; Const 1963, art 1, § 17, guarantee an individual the right to due process of law. Criminal prosecutions must comport with prevailing notions of fundamental fairness. California v. Trombetta, 467 U.S. 479, 485, 104 S.Ct. 2528, 81 L.Ed2d 413 (1984). This standard of fairness requires that defendant be afforded a meaningful opportunity to present a complete defense. Id., at 485." Id., at 370-371.

In the case of In re Osborne, 230 Mich App 712; 584 NW2d 649 (1998), the Court held:

> "We hold that where the right to court-appointed counsel exists, there is a constitutional right to representation that is free from conflicts of interest." Id., at 716.

In Cuyler v. Sullivan, 446 U.S. 335, 100 S.Ct. 1708, 64 L.Ed2d 333 (1980), the Court held.

> "Once the Court concluded that Glasser's lawyer had an actual conflict of interest, it refused to indulge in nice calculations as to the amount of prejudice attributable to the conflict. The conflict itself demonstrated a denial of the right to have the effective assistance of counsel. Glasser v. United States, 315 U.S. 60, 76, 62 S.Ct. 457, 86 L.Ed. 680 (1942). Thus, a defendant who shows that a conflict of interest affected the adequacy of his representation need not

> demonstrate prejudice in order to obtain relief. See Holloway v. Arkansas, 435 U.S. 475, 487-491, 98 S.Ct. 1173, 55 L.Ed2d ____ (1978)." Id., 446 U.S. at 349-350, 100 S.Ct. at 1719, 64 L.Ed2d at 347.

In California v. Trombetta, 467 U.S. 479, 104 S.Ct. 2528, 81 L.Ed2d 413 (1984), the Court held:

> "Under the Due Process Clause of the Fourteenth Amendment, criminal prosecutions must comport with prevailing notions of fundamental fairness. We have long interpreted this standard of fairness to require that criminal defendants to be afforded a meaningful opportunity to present a complete defense." Id., 467 U.S. at 485, 104 S.Ct. at 2528, 81 L.Ed2d at 419.

See also, Crane v. Kentucky, 476 U.S. 683, 690, 106 S.Ct. 2142, 2146, 90 L.Ed2d 636 (1986), holding same.

In United States v. Kerley, 784 F.3d 327 (6th Cir. 2015), the Court held:

> "Whether rooted in the Due Process Clause of the Fourteenth Amendment or the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense.' Holmes v. South Carolina, 547 U.S. 319, 324, 125 S.Ct. 1727, 164 L.Ed2d 503 (2006) (quoting Crane v. Kentucky, 476 U.S. 683, 690, 106 S.Ct. 2142, 90 L.Ed2d 606 (1986))." Id., at 342.

Defense attorneys owe their clients a duty of loyalty including the duty to avoid conflicts of interest. Whiting v. Burt, 395 F.3d 602, 610-611 (6th Cir. 2005), relying on Strickland v. Washington, 466 U.S. 668, 688, 104 S.Ct. 2052, 80 L.Ed2d 674 (1984) (citing Cuyler v. Sullivan, 446 U.S. 335, 346, 100 S.Ct. 1708, 64 L.Ed2d 333 (1980)).

It is also well settled that the denial of counsel at a critical stage of a criminal proceeding mandates automatic reversal, even if the evidence against the defendant was overwhelming. Benoit v. Bock, 237 F.Supp2d 804, 810-811 (E.D. Mich. 2003), relying on United States v. Cronic, 466 U.S. 648, 659, 104 S.Ct. 2039, 80 L.Ed2d 657 (1984).

The issues presented herein testify to the fact that Defense Counsel failed to consult with Defendant, failed to investigate, failed to object to the

egregious Prosecutorial misconduct, and failed to challenge the Trial Court's partiality and bias.

Defense Counsel's actions, and more importantly, her inactions, were addressed in the case of People v. Dixon, 263 Mich App 393; 688 NW2d 308 (2004), where the Court held:

> "The pre-trial period constitutes a critical period because it encompasses counsel's constitutionally imposed duty to investigate the case. Mitchell v. Mason, 325 F.3d 732, 743 (6th Cir. 2003). ... Defense counsel's failure to meet with the defendant between the preliminary and trial, effectively deprived defendant of the 6th amendment right to counsel." Id., at 397, 400.

In Mitchell v. Mason, 325 F.3d 732 (6th Cir. 2003), the Sixth Circuit held:

> "In Cronic, the Supreme Court held that an appeals court must reverses a criminal defendant's conviction without any specific showing of prejudice when counsel was either totally absent, or prevented from assisting the accused during a critical stage of the proceeding. Cronic, 466 U.S. at 659 n.25. In other words, when counsel is totally absent during a critical stage of the proceedings, prejudice must be presumed. ... Because Mitchell's latter claim alleges his counsel's total absence during a critical period, the Michigan Supreme Court should have applied Cronic, rather than Strickland, to his claim. Id., at 740, 748.

Defendant, a layman and represented by alleged competent counsel, did not and does not to this day, understand the nuances of the law that took place throughout his criminal proceeding. Nor was Defendant expected to understand and navigate through his criminal proceedings without the guiding hand of counsel. People v. Strodder, 394 Mich 193, 220; 229 NW2d 318 (1975).

See also, Spriggs v. Collins, 993 F.2d 85 (5th Cir. 1993), where the Court held:

> "[n.8] . . It is axiomatic in our system that when a criminal defendant is represented by counsel, the defendant is not expected to act in the capacity of co-counsel." Id., at 90.

See also the case of United States v. Swanson, 943 F.2d 1070 (9th Cir.

1991), where the Court held that Defense Counsel betrayed his client when it did not hold the Prosecution to its heavy burden of proof beyond a reasonable doubt.

Moreover, both Osborn, supra and Swanson, supra, were adopted in Workman v. Tate, 957 F.2d 1339, 1345 (6th Cir. 1992), where the Court held that a Defense Counsel's inaction constitutes negligence and not trial strategy. As such, because of a constructive denial of counsel, which was tantamount to abandonment, Defendant's absence of counsel resulted in structural error and which requires automatic reversal as discussed in French v. Jones, 282 F.3d 893, 898-899 (6th Cir. 2002).

When considering all of Defense Counsel's errors as outlined in Defendant's Affidavit as EXHIBIT "A," and as argued throughout this pleading, one can only conclude that Defense Counsel's representation was non-existant, which of course, is structural error requiring automatic reversal.

Defendant respectfully submits that only an evidentiary hearing as to Defense Counsel's conduct will determine what this Honorable Court's next step will be as it relates to Defendant's criminal conviction and his appropriate relief.

ISSUE 4

DEFENDANT WAS DENIED A FAIR TRIAL WHEN THE TRIAL COURT FAILED TO CONTROL THE PROCEEDINGS AS ENUMERATED HEREIN, THE RESULT OF WHICH PREJUDICED DEFENDANT TO THE EXTENT THAT RE-PROSECUTION IS BARRED

STANDARD OF REVIEW

The applicable standard of review for the Trial Court's failure to control the proceedings is de novo and is found in MCL 768.29 and in People v. Brocto, 17 Mich App 277, 304-305; 169 NW2d 483 (1969), and which holds that it is the Statutory duty of the Trial Court to control the proceedings at all times. This mandate is mirrored in the Federal forum in the United States Supreme Court case of Geders v. United States, 425 U.S. 80, 86-87, 96 S.Ct. 1330, 1334-1335, 47 L.Ed2d 592 (1976), where the Court held that the Judge must exercise substantial control over the proceedings. Also see, People v. Robinson, 386 Mich 551, 563; 194 NW2d 709 (1972), and holding that the Prosecution's gross misconduct and the Trial Court's acquiescence in the proceedings were such an affront to the integrity of the trial process that no higher Court will countenance such conduct.

ARGUMENT

Defendant was denied a fair criminal proceeding as guaranteed under both State and Federal Constitutions. [Mich. Const. 1963, art 1. §§ 17, 20; U.S. Const. Ams. V, VI, XIV]. This vested right, which is afforded all criminal defendants, was denied Defendant when the Trial Court failed to control the proceedings as argued herein, to the extent that Defendant was deprived of his liberty in a manner inconsistent with Due Process of Law, and which bars re-prosecution.

Defendant has outlined throughout this pleading and in his Affidavit as EXHIBIT (A), which illustrates that this Court was less than fair in its handling of Defendant's criminal trial.

Examples abound in ISSUE 2 in regards to the Police and the Prosecution, as well as ISSUE 3, as it relates to Defense Counsel, that this Honorable Court let

the Prosecution have control over the proceedings with devastating results for the Defendant.

Defendant respectfully submits that the introduction of the Affidavits and ancillary EXHIBITS expose that fact.

JUDICIAL BIAS AND PARTIALITY

Defendant submits that the Trial Court not only denied each and every motion filed on his behalf, but also denied Defendant's request for a Ginther Hearing. Theses acts alone and in concert deprived Defendant of his liberty in a manner inconsistent with Due Process of Law, and which bars re-prosecution.

In support of Defendant's claims, Defendant submits the following well-settled authority:

In Crampton v. Dept. of State, 395 Mich 347; 235 NW2d 352 (1975), the Court held:

> "The United States Supreme Court has disqualified judges and decisonmakers without a showing of actual bias in situations where experience teaches that the probability of actual bias on the part of the judge or decisonmaker is too high to be constitutionally tolerable." Id., at 351.

See also, Clemmons v. Bruce, 122 Mich App 35, 37; 329 NW2d 522 (1982), holding same.

In Bashford v. People, 24 Mich 244 (1871), our Supreme Court held more than a century ago that:

> "The law aims, as far as possible, to give every man a trial that shall not only be fair, but as free as may be from any suspicion of partiality or undue influence." Id., at 245.

In addition, our Supreme Court also held over a century ago in In re Way, 41 Mich 299; 1 NW 1021 (1879), the following:

> "It is a fundamental rule of law and justice that prisoners shall have a fair and public trial, with every protection against oppressive and irregular action."Id., at 303.

See also Kloian v. Schwartz, 272 Mich App 232, 244; 725 NW2d 671 (2006),

holding that Due Process requires an unbiased and impartial decisionmaker.

See further, People v. Stevens, 498 Mich 162; 869 NW2d 233 (2015), where the Court held:

> "Judicial partiality can never be held to be harmless and, therefore, is never subject to harmless-error review. Arizona v. Fulminante, 499 U.S. 279, 309-310, 111 S.Ct. 1246, 1265, 113 L.Ed2d 302, 331 (1991), citing Tumey v. Ohio, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927). The conviction must be reversed 'even if the defendant was clearly guilty.' Chapman v. California, 386 U.S. 18, 43, 87 S.Ct. 824, 838, 17 L.Ed2d 705, 721 (1967) (Stewart, J., concurring)." Id., at 179-180 [Emphasis added].

Federal Courts have held that a fair trial in a fair tribunal is a basic requirement of Due Process. Fairness of course requires an absence of bias in the trial of cases. In re Murchinson, 349 U.S. 133, 136-137, 75 S.Ct. 623, 625-626, 99 L.Ed. 942 (1955). See also, Anderson v. Sheppard, 856 F.2d 741, 745 (6th Cir. 1988), holding same.

DUTY TO PROTECT DEFENDANT'S CONSTITUTIONAL RIGHTS

The record is clear that Defendant's Defense Counsel abandoned Defendant. That said, the Trial Court had a duty to see that Defendant's Due Process rights were protected under the well-settled mandate of Hill v. People, 16 Mich 351, 358 (1868). Based on the Court record, and arguments presented throughout this pleading, this did not happen. To make matters worse, the Trial Court allowed the Prosecution full and unbridled control of the trial proceedings.

TRIAL COURT'S CULPABILITY

What makes this issue so egregious, is the fact that Trial Judges are presumed to know the law and to apply it in making their decisions under the mandate of Lambrix v. Singletary, 520 U.S. 518, 522 n.4, 117 S.Ct. 1517, 1527 n.4, 137 L.Ed2d 771 (1997). And, even though the parties are negligent in not calling these violations to a Court's attention under People v. Rhinehart, 70 Mich App 390, 394; 245 NW2d 763 (1976), Trial Judges cannot be oblivious to the consequences of their

decisions under the mandate of U of M Regents v. Emp. Rel. Comm., 38 Mich App 55, 64; 195 NW2d 66 (1971).

Defendant avers that his liberty was taken in a manner inconsistent with Due Process of Law as espoused in Antoine v. Atlas Turner, Inc., 66 F.3d 105, 108 (6th Cir. 1995), and as articulated in People v. Tait, supra and People v. Morris, supra. As such, Defendant is entitled to not only a bar from re-prosecution, but more importantly, is entitled to immediate release from custody.

ISSUE 5

DEFENDANT WAS DENIED HIS RIGHT TO DUE PROCESS OF LAW WHEN APPELLATE COUNSEL FAILED TO MASTER THE LOWER COURT RECORD, AND THUS, FAILED TO RAISE THE ISSUES PRESENTED HEREIN ON DEFENDANT'S APPEAL AS OF RIGHT

STANDARD OF REVIEW

The applicable standard of review for the constructive denial of appellate counsel is found in Penson v. Ohio, 488 U.S. 75, 88, 109 S.Ct. 352, 354, 102 L.Ed2d 300 (1988), which adopted Satterwhite v. Texas, 486 U.S. 249, 256, 108 S.Ct. 1792, 1797, 100 L.Ed2d 284 (1988), and held that because the fundamental importance of the assistance of counsel does not cease as the prosecution process moves from trial to the appellate stages, the presumption of prejudice must extend as well to the denial of Counsel on appeal.

See also, United States v. Cronic, supra, holding that it is well established that a total or complete deprivation of the right to counsel at a critical stage of a criminal proceeding is a structural error that requires reversal.

It is also well-settled that the "appellate stage" of a criminal proceeding is a critical stage requiring counsel as articulated in Roe v. Flores-Ortega, 528 U.S. 470, 483-486, 120 S.Ct. 1029, 1038, 145 L.Ed2d 985 (2000). Under such circumstances, no specific showing of prejudice is required. This is so because without counsel the adversarial process is then deemed presumptively unreliable.

ARGUMENT

Defendant was denied a fair trial as guaranteed under both State and Federal Constitutions. [U.S. Const. Ams. V, VI, XIV; Mich. Const. 1963, art. 1, §§ 17, 20]. This vested right, which is afforded all criminal defendants who take their case to trial, was denied Defendant when Appellate Counsel abandoned Defendant in his appeal process as reported throughout this pleading, and in Defendant's Affidavit as EXHIBIT "A," and additional supporting EXHIBITS.

As outlined in Defendant's Affidavit as EXHIBIT "A,", Defendant saw Appellate Counsel only two (2) times on Zoom for some 30-minutes each. Defendant was never informed that he had a right to file a Standard 4 Brief under Administrative Order [AO-2004-6]. Also, Defendant did not see the Brief on Appeal prior to its filing in the Court of Appeals. It goes without saying that none of the issues raised in this Motion were ever raised in Defendant's Appeal as of Right.

Defendant attempted to share his thoughts with Appellate Counsel, but it was most difficult; considering that Appellate Counsel was present for only two (2) Zoom visits of 30 minutes each. Defendant is not schooled in the law and found it most difficult to express his thoughts with Counsel in such a short amount of time.

Needless to say, none of the issues presented herein for adjudication on the merits were ever presented on Defendant's Appeal as of Right.

This refusal by Appellate Counsel to raise ineffective assistance of Defense Counsel prejudiced Defendant. This position taken by Appellate Counsel violated the doctrine espoused in Workman v. Tate, 957 F.2d 1339, 1345 (6th Cir. 1992), which adopted both Osborn v. Shillinger, 861 F.2d 1070 (9th Cir. 1991). There, the Workman Court held that such behavior from Counsel was nothing less than abandonment and sabotage. This very conflict of interest demonstrated prejudice and demanded relief under Cuyler v. Sullivan, 446 U.S. 335, 349-350, 100 S.Ct. 1708, 1719, 64 L.Ed2d 333, 347 (1980).

What has yet to be explained is the fact that if Defendant could find and present these issues for adjudication, how then could learned Counsel on Defendant's behalf not have seen them? Defendant submits that only an evidentiary hearing can reveal why Defendant was abandoned by Appellate Counsel.

The case of People v. Thompson, 69 Mich App 465; 245 NW2d 93 (1973), outlines Defendant's position in this case where the Court opined:

> "A criminal trial is a sophisticated undertaking. Proper representation in this adversarial setting requires a good deal of training and skill. Most lawyers (hopefully) have these attributes; most criminal defendants assuredly do not." Id., at 467.

As such, Defendant had no choice but to trust that Appellate Counsel would protect his Constitutional rights under the mandate of Kimmelman v. Morrison, 477 U.S. 365, 378, 106 S.Ct. 2574, 2584, 91 L.Ed2d 305 (1986).

Appellate Counsel had a duty to "MASTER" the record, thoroughly research the law, and exercise judgment in identifying the arguments to be advanced on appeal. To perform that task, Counsel had a duty to evaluate Defendant's case and advise him as to the prospects for success.

Counsel had a duty to serve Defendant's interests to the best of Counsel's ability as articulated in McCoy v. Court of Appeals of Wisconsin, Dist. 1, 486 U.S. 429, 438, 108 S.Ct. 1895, 1902, 100 L.Ed2d 440 (1988).

See also, Schlup v. Delo, 513 U.S. 298, 115 S.Ct. 851, 130 L.Ed2d 808 (1995), where the Court held:

> "The principles of comity and finality that inform the concepts of cause and prejudice must yield to the imperative of correcting a fundamentally unjust incarceration." Id., 513 U.S. at 321, 115 S.Ct. at 865, 130 L.Ed2d 808.

See further, People v. Wynn, 386 Mich 627, 643; 194 NW2d 354 (1972), holding same.

As Defendant has argued throughout this pleading, the issues presented herein are "dead bang winners" as defined in Matthews v. Abramajtys, 92 F.Supp2d 615, 642 (E.D. Mich. 2000), aff'd 319 F.3d 780 (6th Cir. 2003). What makes them "dead bang winners" is the fact that they are obvious from the lower court record, and ones that are obvious on their face.

The issues already articulated and argued and supported by well-settled authority, all speak to the fact that Defendant was denied the very basics of Due Process. Defendant was simply denied Counsel at a critical stage of the proceeding

on appeal, which is nothing less than structural error and mandates automatic reversal under French v. Jones, supra.

Defendant reiterates, that for reasons unknown to him, only an evidentiary hearing pursuant to People v. Ginther, supra, can possibly determine why Defendant was abandoned on his Appeal as of Right.

The case of People v. Brent Marshall, 2020 Mich App LEXIS 2986 (April 23, 2020), could not have said it better where the Court opined:

> "To let defendant's conviction stand would be to punish defendant for his appellate counsel's failure to deliver a reasonable performance." Id., at *7-8.

As such, Defendant respectfully submits that he was denied his Constitutional right to Due Process of Law during his appellate process, and which violation resulted in manifest injustice.

ISSUE 6

DEFENDANT WAS DENIED HIS FUNDAMENTAL PROTECTIONS TO A FAIR CRIMINAL PROCEEDING, BY AND THROUGH THE CUMULATIVE EFFECT OF ERRORS THAT TOOK PLACE AT THE HANDS OF THE OFFICERS OF THE COURT

STANDARD OF REVIEW

The standard of review for determining if cumulative error applies to any given criminal case is found in People v. Daoust, 228 Mich App 1, 16; 577 NW2d 179 (1998), and holding that, "although one error in a case may not necessarily provide a basis for reversal, it is possible that the cumulative effect of a number of minor errors may add up to error requiring reversal."

In order to reverse because of cumulative error, the effect of the errors must be sufficiently prejudicial to warrant a finding that the criminal defendant was denied a fair trial. People v. Knapp, 244 Mich App 361, 388; 624 NW2d 227 (2001). See also People v. Hunter, 2003 Mich App LEXIS 2210 (September 11, 2003) at *19, holding same. In People v. Skowronski, 61 Mich App 71, 77; 232 NW2d 306 (1975), the Court held that, "the test to determine whether a case requires reversal is not whether there are some irregularities, but whether defendant had a fair trial." See further, People v. Smith, 363 Mich 157; 108 NW2d 751 (1961), holding same.

This standard is mirrored in the Federal forum as evidenced by the case of United States v. Adams, 722 F.3d 788 (6th Cir. 2013), where the Court held:

> "'The cumulative effect of errors that are harmless by themselves can be so prejudicial as to warrant a new trial.' United States v. Sypher, 684 F.3d 622, 628 (6th Cir. 2012). 'In order to obtain a new trial based upon cumulative error ... defendant must show that the combined effect of individually harmless errors was so prejudicial as to render the trial fundamentally unfair.' United States v. Trujillo, 376 F.3d 593, 614 (6th Cir. 2004)." Id., at 832.

ARGUMENT

Since Hebert v. Louisiana, 272 U.S. 312, 316-317, 47 S.Ct. 103, 104, 71 L.Ed. 270, 273 (1926), the United States Supreme Court has revisited the denial of Due Process in the context of compound or cumulative errors impacting the jury's ability to correctly determine guilt or innocence. See Berger v. United States, 295 U.S. 78, 89, 55 S.Ct. 629, 633, 79 L.Ed. 1314 (1935) ('We have a case where the [errors had] ... a probable cumulative effect upon the jury which cannot be disregarded as inconsequential'); Fahy v. Connecticut, 375 U.S. 85, 91, 84 S.Ct. 229, 232, 11 L.Ed2d 171 (1963) ('Nor can we ignore the cumulative prejudicial effect of this evidence upon the conduct of the defense and of its prejudicial effect on the outcome of trial'); and Chambers v. Mississippi, 410 U.S. 284, 288, 93 S.Ct. 1038, 1043 & n.3, 35 L.Ed2d 297 (1973) ('The substance of his claim rests on the cumulative effect of [several errors] frustrating his efforts to develop an exculpatory defense').

Michigan Courts have followed Federal Courts to recognize the cumulative effect of many errors is not just a legal theory, but a Due Process mandate. While errors standing alone may not be so prejudicial to amount to a deprivation of Due Process, the cumulative effect of several errors can result in a trial setting that is fundamentally unfair. People v. Smith, 158 Mich App 220, 232; 405 NW2d 156 (1987); Matlock v. Rose, 731 F.2d 1236, 1244 (6th Cir. 1984).

The record in this case discloses many errors, some of which by themselves are not sufficiently prejudicial to warrant relief, and of course, some that are so prejudicial as to warrant relief. However, the prejudicial weight of these errors when analyzed cumulatively causes Defendant's trial to cross the line from one which was merely imperfect to one which violated his

right to Due Process of Law resulting in a suspect verdict. People v. Smith, supra at 232.

Most importantly, Defendant points to the cumulative effect of the abandonment of Defense and Appellant Counsels, the egregious actions of the Police and Prosecution, not to mention the Trial Court's failure or refusal to control the proceedings.

In Groseclose v. Bell, 895 F.Supp 935, 960 (M.D. Tenn. 1995), the Court held that the defendant was denied Due Process due to the cumulative effect of errors that included Defense Counsel's failure to form a meaningful relationship with the defendant. There, the attorney did not interview the defendant carefully, failed to investigate all of the circumstances of the case, failed to consider mitigating circumstances and prepare witnesses properly. Moreover, Defense Counsel did not file meaningful pre-trial motions and did not object throughout the criminal trial proceedings.

Defendant respectfully submits that he is on all fours with this case and while not exhaustive, it is illustrative of the cumulative effect of errors that took place in Defendant's trial.

Adding to the manifest injustice that Defendant continues to suffer is the newly discovered evidence that not only establishes Defendant's actual innocence, but also exposes the conflicts of interest of Defense Counsel and the effect it had on Defendant's trial.

As such, as exemplified in the ISSUES presented herein, Defendant respectfully submits that they built on one another throughout Defendant's trial, and caused substantial prejudice to permeate the entire process.

Defendant respectfully submits that the unresolved issues identified and discussed herein, only add to manifest injustice that Defendant continues to suffer. Defendant respectfully submits that regardless what form and to

what extent these errors took place, they deprived Defendant of his fundamental Constitutional right to a fair trial in violation of the doctrine of fundamental fairness as espoused in Rochin v. California, supra, as his liberty was taken in a manner inconsistent with Due Process of Law as expoused in Antoine v. Atlas Turner, Inc., 66 F.3d 105, 108 (6th Cir. 1995).

ISSUE 7

RELIEF FROM JUDGMENT SHOULD BE GRANTED WHERE DEFENDANT CAN ESTABLISH "GOOD CAUSE" AND "ACTUAL PREJUDICE" FOR NOT PREVIOUSLY BRINGING THESE ISSUES BEFORE THIS HONORABLE COURT FOR ADJUDICATION ON THE MERITS

STANDARD OF REVIEW

Under the current standard, in order to grant relief in this case, reviewing Courts must find both "good cause" for failure to raise such grounds on appeal or in a prior motion, MCR 6.508(D)(3)(a), and "actual prejudice."

The Court may waive the "good cause" requirement of subrule (D)(3)(a) if it concludes that there is a significant possibility that the Defendant is innocent of the crime.

Defendant submits that the constructive denial of both Defense and Appellate Counsels establishes "good cause," especially where Defense Counsel was operating at two (2) conflicts of interest. Defendant further submits that the Police and the Prosecutorial gross misconduct only adds to meeting the "good cause" requirement.

Based on the documented errors and supporting proofs, Defendant submits that no Court can conclude that Defendant received a fair trial and fair appeal process. This inaction has been ruled as structural error under French v. Jones, supra. Moreover, abandonment of legal representation is deemed as a jurisdictional defect. This is especially true in Defendant's case where the performance of Counsel was tainted by two (2) conflicts of interest. This made Counsel's representation so inadequate that the effect was no Counsel at all under United States v. Cronic, supra.

The next part of the test for whether relief should be granted requires Defendant to show that the conviction was invalid due to error. MCR 6.508(D)(3)(b)(1) and (iii). As already articulated and argued throughout this pleading, Defendant was denied his basic fundamental rights.

ARGUMENT

Defendant was unable to raise the argument as outlined in ISSUE 1, during his criminal proceedings due to the fact that even though the exculpatory evidence existed, Defense Counsel refused to raise it, and Appellate Counsel ignored Defendant's requests to do the same on his Appeal as of Right. Hence, the reason for this Motion for Newly Discovered Evidence under MCR 6.502(G)(2), because Defendant's Jury did not know of this evidence and it is more than likely that the outcome of the trial would have been different.

As important here, Defendant has maintained his innocence throughout his criminal proceedings. United States v. Alexander, 948 F.2d 1002, 1004 (6th Cir. 1991).

The actual prejudice is established under MCR 6.508(D)(3)(iii). In Defendant's case, actual prejudice is established based on the newly discovered evidence in the form of two (2) affidavits that exonerate Defendant, and one (1) affidavit that establishes that Defendant is actually innocent by and through a res gestae alibi witness.

As such, Defendant submits that what took place throughout his criminal proceedings was a denial of fundamental fairness contrary to Rochin v. California, supra, and the taint on his criminal proceedings can only be assessed in an Evidentiary Hearing. Then and only then can it be determined why both Defense and Appellate Counsels abandoned Defendant, why the Police and Prosecution violated Defendant's Constitutional rights, and why the Trial Court acquiesced control of the proceedings over to the Prosecution.

NOTICE OF COMPLIANCE WITH THE AEDPA MANDATE

Defendant wishes the parties herein to take notice that Defendant has relied on United States Supreme Court mandates to support all of the ISSUES presented herein.

In the event this Honorable Court should decide to deny relief, or should the Prosecution challenge any potential relief this Honorable Court may choose to grant, Defendant is prepared to pursue his legal remedies; up to, and including the filing of a Petition for Writ of Habeas Corpus in the Federal Courts, if necessary.

Defendant takes this position because he will be able to establish that the State Courts would have rendered decisions under AEDPA that were "contrary to," or "an unreasonable application of," clearly established law, as set forth by the United States Supreme Court, and as articulated in the seminal case of Williams v. Taylor, 529 U.S. 362, 376, 120 S.Ct. 1495, 1504, 146 L.Ed2d 389, 402 (2000). See also, Hicks v. Straub, 239 F.Supp2d 697, 704-705 (E.D. Mich. 2002), holding same.

CONCLUSION

Defendant submits that even though he has presented bona fide issues before this Honorable Court, much of the arguments herein revolve around the fact that they are off-record issues, and which require an Evidentiary Hearing to make a record pursuant to the mandate espoused in People v. Ginther, 390 Mich 436, 443-444; 212 NW2d 922 (1973) and People v. Ford, 417 Mich 66, 113; 331 NW2d 878 (1982). Defendant further asserts that this Evidentiary Hearing is necessary because without it, the reviewing Courts will decline to address the ISSUES at all under, People v. Whyte, 165 Mich App 409, 415; 418 NW2d 484 (1988).

Defendant further asserts that it is incumbent on this Honorable Court to resolve disputed facts to address the undisclosed hidden issues in this case. See, Abdur'Rahman v. Bell, 226 F.3d 696, 706 (6th Cir. 2000), holding that a district court may order an evidentiary hearing to settle disputed issues of material fact. See also, Banks v. Dretke, 540 U.S. 668, 690-691, 124 S.Ct. 1256, 1272, 137 L.Ed2d 1166, 1189 (2004), holding same.

Defendant makes this request to comport with the mandates of Keeney v. Tamayo-Reyes, 504 U.S. 1, 11-12, 112 S.Ct. 1715, 1721, 118 L.Ed2d 318 (1992), Williams v. Taylor, 529 U.S. 420, 430, 120 S.Ct. 1479, 1488, 146 L.Ed2d 435 (2000) and Byrd v. Collins, 209 F.3d 486, 515 (6th Cir. 2000), which all stand for the proposition that should the State Courts deny Defendant of an evidentiary hearing to complete the existing record, then he may request the Federal Courts to conduct the requisite hearing.

As such, Defendant respectfully requests this Honorable Court will conduct the appropriate Evidentiary Hearing pursuant to MCR 6.507(A) and MCR 6.508(C), and order the simultaneous appointment of Counsel under MCR 6.505(A)

to represent and protect Defendant's Constitutional rights in that proceeding.

RELIEF REQUESTED

WHEREFORE, for all of the aforementioned arguments, and as supported by well-settled authority, Defendant respectfully prays this Honorable Court will:

1. Accept Defendant's Motion for Relief from Judgment Based on Newly Discovered Evidence as timely and properly filed,

2. Adjudicate the ISSUES presented on the merits, or,

3. Conduct an Evidentiary Hearing under MCR 6.507(A) and MCR 6.508(C) to resolve any and all disputed facts, should this Court deem it necessary, and to,

4. Simultaneously appoint Counsel under MCR 6.505(A) to represent Defendant in that proceeding, and/or,

5. Grant any and other relief this Honorable Court deems just and appropriate.

Under the penalty of perjury, Defendant declares that the statements above and the supporting evidence presented herein, is true to the best of his information and knowledge.

Respectfully submitted,

George G. Rider Bey

Dated: March 3rd, 2026

George Gerald Rider-Bey, 155733
Thumb Correctional Facility
3225 John Conley Drive
Lapeer, MI 48446

STATE OF MICHIGAN

IN THE MACOMB COUNTY CIRCUIT COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

File No. 2017-003420-FC

-vs-

Hon. Joseph Toia

GEORGE GERALD RIDER-BEY,

Defendant.

_____/

E X H I B I T S

INDEX TO EXHIBITS

EXHIBIT A - Affidavit of George Gerald Rider-Bey

EXHIBIT B - Affidavit of Amir A. Rider dated August 20, 2023

EXHIBIT C - Affidavit of Scott Lewis Mischnick dated November 30, 2023

EXHIBIT D - Jury Trial Transcripts pp. 10-11 dated March 26, 2019

EXHIBIT E - Search Warrant & Affidavit dated January 27, 2017

EXHIBIT F - Jury Trial Transcripts p. 210 dated March 26, 2019

EXHIBIT G - Evidentiary Hearing Transcript dated November 21, 2018

EXHIBIT H - Motion Transcript dated March 6, 2019

EXHIBIT I - Affidavit of Lawrence Rider-El dated August 10, 2023

EXHIBIT J - District Court Transcript dated February 22, 2017

EXHIBIT K - Affidavit of Scott Lewis Mischnick dated November 30, 2023

AMENDED

INDEX TO EXHIBITS

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EXHIBIT J - District Court Transcript dated February 22, 2017

EXHIBIT K - Affidavit of Scott Lewis Mischnick dated November 30, 2023

EXHIBIT L - Affidavit of Gloria J. Ray dated August 20, 2023

EXHIBIT M- Attorney Suzanna Kostovski Suspension

STATE OF MICHIGAN

IN THE MACOMB COUNTY CIRCUIT COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

File No. 2017-003420-FC

-vs-

Hon. Joseph Toia

GEORGE GERALD RIDER-BEY,
Defendant.
_____/

AFFIDAVIT OF GEORGE GERALD RIDER-BEY

NOW COMES, George Gerald Rider-Bey, being duly sworn and deposed, and says:

1. I am above the age of 18 and am competent to make this Affidavit.

2. I am the Defendant in the above named action, and make this Affidavit of my own free will.

3. I declare that I am innocent of the crime I was charged with and can support my position via my alibi witnesss, Amir A. Rider, by and through his Affidavit as EXHIBIT "B."

4. My retained Defense Counsel, Suzanna Kostovski, abandoned all legal representation after being approached by Federal agents who informed her that I was a suspected murderer with multiple victims. This was her first Conflict of Interest. See Affidavit of Scott Lewis Mischnick which is EXHIBIT "C." See also Motion Transcript as EXHIBIT "H."

5. The second Conflict of Interest came about over money. After negotiations, she was paid extra, but her performance failed as disclosed in the arguments outlined in the simultaneously filed Motion for Relief from Judgment Based on Newly Discovered Evidence.

EXHIBIT A

6. When I requested new Defense Counsel, the Trial Court refused to conduct the Ginther Hearing. See Transcript as EXHIBIT "D."

7. Defense Counsel did not object to Police Officer Brandon Roy's false statements to obtain Search Warrants to cell phone data which became the basis for confiscating the cellphones in Defendant's possession, under the guise of securing valuable information pertinent to the murder EXHIBIT "E," none of the cellphones provided any information leading to or confirming the murder whatsoever. See Scott Lewis Mischnick's Affidavit as EXHIBIT "C," and Evidentiary Hearing Transcript as EXHIBIT "G."

8. Although Defense Counsel informed the Jury that I had three witnesses, not one was called, and no Notice of Alibi under MCL 768.20 was filed with the Court. See Scott Lewis Mischnick's Affidavit as EXHIBIT "C," and Jury Trial Transcript as EXHIBIT "F."

9. The Affidavit of Lawrence Rider-El which is EXHIBIT "I," outlines the fact that I was not involved in the murder in any way as sworn to by Detective Bozek as in District Court Transcript as EXHIBIT "J." I never conspired with anyone to kill anyone at any time for any reason. The Affidavit also outlines that all communications using the company cellphone was between Lawrence Rider-El and Marcie Griffin.

10. The sad part here is that Defense Counsel had in her possession the Affidavit of Amir A. Rider, which was Defendant's alibi witness and submitted as EXHIBIT "B."

11. The cell phone issue EXHIBIT "E," that created a remand from the Court of Appeals should never have happened in the first place. See Evidentiary Hearing Transcript dated November 21, 2018 as EXHIBIT "G." See also Scott Lewis Mischnick's Affidavit as EXHIBIT "C," where Defense Counsel equated the cell phone data and the confiscation of the cell phones as one in the same. Even though the

Court of Appeals upheld the Trial Court's ruling that exigent circumstances existed, that Court and the Supreme Court never had the complete story as illustrated in the pleading that is before this Honorable Court.

12. Regarding legal representation, I saw Defense Counsel three (3) times for 30-minutes each in the 888-days I was confined in the Macomb County Jail.

13. I saw Appellate Counsel only two (2) times on Zoom for some 30-minutes each time. I was never informed that I had a right to file a Standard 4 Brief under [AO-2004-6], nor did I see the Appellate Brief before it was filed in the Court of Appeals.

14. If called to testify, I will be willing to testify to the facts contained in this Affidavit.

Under the penalty of perjury, I declare that the statements herein, and supporting EXHIBITS are true to the best of my information and knowledge.

Further, Affiant sayeth not.

Respectfully submitted,

George G. Rider Bey

Dated: March 2nd, 2026

George Gerald Rider-Bey, 155733
Thumb Correctional Facility
3225 John Conley Drive
Lapeer, MI 48446

Subscribed and sworn to before me
this 2 day of Marech, 2026.

Rochelle Gallimore

Notary Public
My Commission Expires: 8/22/2029

ROCHELLE GALLIMORE
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Aug 22, 2029
ACTING IN COUNTY OF Lapeer

AFFADAVIT

I Amir A. Rider am a US Citizen and I do swear under the penalty of perjury pursuant to MCL 600.2182 and 28USC 1746. That:

1) I am 19 years old and the biological son of Gloria J. Ray and George G. Rider Jr.

2) In January 2017. I was a student at The Detroit Waldorf School. I lived in St. Clair Shores, MI with my parents. My dad drove me to school every day since 3rd grade. He would also pick me up at the end of the school day.

3) We would leave our home at around 7:00 -7:15 AM so we would have time to get breakfast from the Tim Hortons on Harper close to our house. My mom worked a distance from the house and would usually leave before myself and my dad.

4) After my dad's arrest on February 23, 2017, my mom and I would leave home very early in the morning so she could take me to my aunt's house to get to school each day.

5) My only knowledge of my father is as a business man. He did landscaping and worked on repairing houses.

6) I am heartbroken my dad has been sent to prison for a crime he didn't commit. He is my hero. I know he is innocent. My life has not been the same since he has put in jail.

I would be glad to be interviewed about any of these statements. My dad must be proven innocent, because I know he didn't commit the crime he is currently in jail for.

8-20-23
Date

Amir A. Rider

Notary Acknowledgement

Subscribed and sworn before me on this 20 day of Aug. 2023

Linda E. Snedacar-Horne Notary Public

County Of WASHTENAW

LINDA E. SNEDACAR-HORNE
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires 04-29-2029
Acting in the County of WASHTENAW

EXHIBIT B

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

Case No. 17-003420-FC

v

GEORGE RIDER,
Defendant.

Affidavit of Scott Lewis Mischnick

BEFORE ME, the undersigned Notary, personally appeared Scott Lewis Mischnick, who being by me first duly sworn, on his oath, deposes and says:

1. My name is Scott Lewis Mischnick, and I make this affidavit from personal knowledge of the matters addressed herein.

2. I am a licensed private investigator in the State of Michigan. I am a former TV investigative reporter with over 30 years of investigative experience, and I go by the professional name of Scott Lewis. The name of my company is Scott Lewis Private Investigations.

3. On June 13, 2023, I was retained to do investigative work for an appeal in the above captioned case.

4. On September 6, 2023, at the request of George Rider, I conducted a telephone interview with his trial attorney, Suzanna Kostovski.

5. Ms. Kostovski told me that she doesn't recall whether she got an affidavit from George Rider's brother but she said she felt that George's brother was a weak witness. She doesn't remember why she determined him to be a bad witness. Kostovski said that Mr. Rider had an alibi witness who told the jury that he was taking their child to school when the murder happened.

6. I asked Ms. Kostovski if she was aware that the warrant used to get data from Mr. Rider's phone was not a seizure warrant and that the police seized his phone without a warrant. She stated that she doesn't know if there was anything wrong with the warrant for the phone but an issue with the phone warrant was raised with the circuit court judge in a motion, and it was denied. She said that she filed every motion conceivable on Mr. Rider's behalf and everything was shot down. She said that the police only needed to have probable cause to arrest Rider and they got a warrant for the phone data.

EXHIBIT C

7. Kostovski further stated that if there was anything wrong with the phone warrant, she doesn't know about it, and if there was something wrong with it, maybe it was raised on appeal after Mr. Rider's trial. She said that I might want to speak with his Rider's appellate attorney.

8. I asked Kostovski if she was ever approached by the prosecutor about Mr. Rider's case. She said that she was approached by the county prosecutor, a federal prosecutor, and the FBI. They told her that Mr. Rider was under investigation for insurance fraud. They asked if Mr. Rider would be interested in making a deal to cooperate on the insurance fraud in exchange for a deal on the murder case. Kostovski said that is not unusual to be approached by prosecutors about a deal before a trial, and that all she did was listen to them and pass their offer to Rider.

9. Kostovski said the prosecutors and the FBI did not threaten her to pressure Rider to take the deal. She said that she wrote Mr. Rider a letter outlining what the prosecutors and FBI said to her, and also talked to him in person about it. Kostovski said that she did everything properly and the offer for a deal never went anywhere.

10. Ms. Kostovski stated that the offer from the Feds and the county prosecutor did not compromise her or affect her work on Mr. rider's case at all. Ms. Kostovski also stated that the judge held a hearing on this issue before the trial, responding to a motion; that the judge litigated it, and since it has been litigated, it is not an issue.

11. The information in this affidavit is true and accurate. I have not been promised anything, bribed or coerced in any way to make this statement and I am willing to testify under oath in a court of law.

FURTHER, YOUR AFFIANT SAYETH NOT.

[signature of affiant]
Scott Lewis Mischnick

Subscribed and sworn to before me on NOV. 30, 23 in Manatee County, Florida.
My commission expires: 12/20/2026

Signature: Cara
Notary Public, Florida, County of Manatee

CARA LANE
Notary Public - State of Florida
Commission # HH 339744
My Comm. Expires Dec 20, 2026
Bonded through National Notary Assn.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

PEOPLE OF THE STATE
OF MICHIGAN,
People,

vs. Case No.: 2017-3420-FC

GEORGE RIDER
Defendant.
_____/

JURY TRIAL
BEFORE THE HONORABLE JOSEPH TOIA
Mount Clemens, Michigan - Tuesday, March 26, 2019

FOR THE PEOPLE:
JURIJ D. FEDORAK - P46866
Macomb County Prosecutor's Office
1 S Main St.
Mount Clemens, MI 48043
(586) 469-5350

FOR THE DEFENDANT:
Marcie Griffin
TODD F. FLOOD - P58555
KEVIN G. SIMOWSKI - P34358
Flood Law PLLC
401 N Main St.
Royal Oak, MI 48067-1812
(248) 547-1032

Elaine M. Vozza Mada, CSR, RPR
Official Court Reporter
Macomb County Circuit Court
40 North Main Street
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(586) 307-8238

EXHIBIT D

APPEARANCES (continued):

FOR THE DEFENDANT: George Rider	SUZANNA KOSTOVSKI - P39535 Law Offices of Suzanna Kostovski 220 Bagley St., Ste. 1018 Detroit, MI 48226 (313) 965-6050
FOR THE DEFENDANT: Eric Gibson	RANDY C. RODNICK - P36260 ROBERT PIRAINO - P78639 Rodnick & Unger PC 3280 E 13 Mile Rd. Warren, MI 48092-1333 (586) 574-0020

the prosecutor, 27 for the combined defendants, and 54.

We have a panel of 75 proposed jurors ready to come in. In terms of procedure, we'll follow the, we will follow the case order as according to case number in terms of questioning, so we will start with Mr. Gibson's attorney, Mr. Rodnick.

MR. RODNICK: Your Honor, if I may.

THE COURT: Yes.

MR. RODNICK: Before we start, I'd like to change the order. I understand what the arguments are, but the bottom line is due to the issues that we've been having with my client, I'd like to go last. Maybe if he hears the other persons, he may not, you know, I can maybe ask one or two questions or do what I have to do, and maybe he may not intercede.

I do want him to stay throughout the trial and not be sent out of the courtroom. So, based on -- and you know that there's been a history, so I'm very concerned about that. So, if I can be last, that would be really appreciated. I don't think it should be a problem with co-counsels.

THE COURT: Does anyone object?

MR. FLOOD: As it relates to -- I think, Judge, just to be candid, I think defense counsel needs to meet jointly and make a strategy and plan as it relates to

witnesses and questions and the like.

As it goes for voir dire, I could care less. I'll go first since I'm sitting here first, but I think we'll meet during the lunch break or something --

THE COURT: All right.

MR. FLOOD: -- to go over different (inaudible).

THE COURT: All right. For voir dire purposes then we'll go with Mr. Flood on behalf of Ms. Griffin, Ms. Kostovski on behalf of Mr. Rider, and then Mr. Rodnick on behalf of Mr. Gibson.

MR. RODNICK: Thank you, your Honor.

THE COURT: All right.

MS. KOSTOVSKI: Your Honor, as I explained to the Court when we were going over the ground rules in chambers, Mr. Rider has a motion here that he wants filed and, obviously, places on the record. It's a motion, I guess, to remove me as his counsel and I'll let him present that because I've just seen it. I haven't really read it.

THE COURT: Mr. Rider.

DEFENDANT RIDER: How you doing? This is a motion requesting the removal of my counsel for being ineffective because I feel that my counsel failed to investigate certain things and I've brought this to her attention and she still didn't address it.

So, I would like to file this motion and I have a

brief also that's outlining it, everything that I have a complaint about.

THE COURT: Well, at this time, Mr. Rider, we're ready to start with our jury selection and begin this trial.

So I would note for the record that you had, I believe, initially retained Ms. Kostovski. You had once, looking at the history, I'm not sure why she was substituted out. There was court-appointed attorney and then you wished to remove the court-appointed attorney and re-hire Ms. Kostovski who has been on this case now since this Court has had the case, this Court meaning me, since, I think, October or so and she has been here and handled this case.

To file this motion at the, on the day of trial is untimely. You can preserve your record and, certainly, if there's a -- but your motion is denied.

DEFENDANT RIDER: Your Honor, but I -- there was an interference with the government when she came back.

THE COURT: Mr. Rider, you've made these issues. I've indicated you can make your record. We're starting trial this morning, sir.

DEFENDANT RIDER: Okay. Can I file this?

THE COURT: You can -- if there's an issue with regard to the appeal court -- the time for motions -- I've

just ruled on your motion. You can file your paperwork if you wish.

DEFENDANT RIDER: Okay. So, you saying I'm stuck with her?

THE COURT: I didn't say you're stuck with her, sir. You retained her. She's your attorney and this is the day of trial. We're proceeding.

DEFENDANT RIDER: So, if she goes or I go. Which one? I means, I can just have this trial without me 'cause you all seem to have made all the rules. I mean, I don't need to be here.

THE COURT: It's the attorney that you hired, sir. Twice. Ready to proceed with the jury?

MR. FLOOD: Yes, your Honor.

THE COURT: Ms. Kostovski, ready to proceed?

MS. KOSTOVSKI: Yes, your Honor.

THE COURT: Mr. Rodnick?

MR. RODNICK: Yes?

THE COURT: Ready to proceed?

MR. RODNICK: Yes.

THE COURT: Okay. I would just caution everyone that the Court's not going to entertain any outbursts in this court.

THE DEPUTY: All rise for the jury.

THE COURT: Good morning, ladies and gentleman.

This is a criminal case involving the charges of first-degree murder and felony firearm which I will explain more fully later. The charges have been made against the defendants who are Eric Gibson, George Rider, and Marcie Griffin. The defendants' lawyers are Randy Rodnick, Suzanna Kostovski, and Kevin Simowski, and Todd Flood.

So, I'll ask each of you -- we'll start with Mr. Rodnick. Mr. Rodnick, if you would please stand, introduce your client, and any potential witnesses.

MR. RODNICK: I'm just looking for my witness list, sorry.

THE COURT: I understand.

MR. RODNICK: I set it down somewhere. One moment.

THE COURT: Let me start with -- did you find it? We can start with Mr. Flood and we'll work our way back.

MR. RODNICK: (Inaudible).

THE COURT: Mr. Flood, are you ready, sir?

MR. FLOOD: Yes.

THE COURT: If you could introduce your client, your colleagues, and any witnesses, any potential witnesses?

MR. FLOOD: Thank you, your Honor. Good afternoon. My name is Todd Flood. This is Kevin Simovski. This is Marcie Griffin; this is our client.

We have several witnesses. They're listed on the prosecution's witness list. If we call anyone, it would duplicative of what is going to be read off, so I'd rather just save time and have them read off one time only. Thank you. Thank you, your Honor.

THE COURT: All right.

MR. FLOOD: One other person, Peter Martell is one of our clerks. You'll see him every once in a while in and out of the courtroom. Thank you.

THE COURT: All right. Thank you. Ms. Kostovski.

MS. KOSTOVSKI: Good afternoon, everyone. I'm Suzanna Kostovski and I'm representing my client, George Rider.

* And we have three witnesses that we've identified in addition to what the prosecution has identified and they are Gloria Ray, James Lattner, and Larry Rider. Thank you.

THE COURT: All right. Thank you. Mr. Rodnick, are you ready to proceed?

MR. RODNICK: Yes. Thank you, ladies and gentleman. I'm Randy Rodnick. I represent my client, Mr. Gibson here. My associate Robert Piraino will be in and out. You'll see him occasionally helping out.

My witnesses are, of course, my client and co-defendants. We may have an independent expert for DNA

STATE OF MICHIGAN
37TH JUDICIAL DISTRICT

CASE NO:

SEARCH WARRANT

Police Agency Report Number: 17-2166

TO THE SHERIFF OR ANY PEACE OFFICER:
Police Officer Brandon Roy has sworn to the attached affidavit regarding the following:

The person, place, or thing to be searched is described as and is located at:

1. Metro PCS, Specifically records associated with Metro PCS phone number 313-768-4616.

The PROPERTY to be searched for and seized, if found, is specifically described as:

1. The real time location of the Metro PCS mobile device with assigned phone number 313-768-4616 using any means for the period beginning 01/27/2017 at the time of receipt of this order until 02/26/2017 at 0000 HRS EST.
2. Subscriber information, to include name, address and phone number.
3. Other numbers associated with aforesaid account.
4. Text message detail to include cell site location and sector for the period beginning 01/01/2016 and ending 01/27/2017.
5. Call log detail to include cell site location, sector and distance from tower measurements for the period beginning 01/01/2016 and ending 01/27/2017.
6. Cellular site records shall include GPS location of the cellular site, as well as sector / azimuth information.
7. Type of phone affiliated with the account(s).
8. A list of definitions pertinent to the records supplied
9. Said records shall be supplied in digital format.

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: I have found that probable cause exists and you are commanded to make the search and seize the described property. You are further commanded to properly return this warrant and tabulation to the Court.

IT IS FURTHER ORDERED that you may monitor the signals from said device(s) / online profile(s) for a period no longer than 30 days to follow the issuance of this order.

Issued under my hand this 27th day of January, 2017

JAN 27 2017

Judge/Magistrate in and for the
37th District Court,
Macomb County, State of Michigan

EXHIBIT E

Original Affidavit - Court Original Warrant – Return	1st Copy – Prosecutor 1st Copy – Prosecutor	2nd Copy - Serve 2nd Copy - Serve	3rd Copy – Issuing Judge

STATE OF MICHIGAN
37TH JUDICIAL DISTRICT

AFFIDAVIT FOR SEARCH WARRANT

CASE NO:

POLICE AGENCY REPORT NUMBER: 17-2166

Police Officer Brandon Roy, Affiant, states that:

The person, place, or thing to be searched is described as and is located at:

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7. Type of phone affiliated with the account(s).
8. A list of definitions pertinent to the records supplied
9. Said records shall be supplied in digital format.

The FACTS establishing probable cause or the grounds for a search are:

1. Affiant is employed as a Law Enforcement Officer by the City of Warren as defined by 1965 PA 203, MCL 28.602. Affiant's responsibilities include the prevention and detection of crime and the enforcement of the general criminal laws of this State. Affiant has over eight years of law enforcement experience and held previous assignment with the Warren Police Department's Special Investigations Division (SID). As an Officer of the Special Investigations Division, Affiants duties include performing complex criminal investigations. Affiant is a graduate of the Macomb Police Academy and has received basic training criminal investigations. Affiant has also received advanced police training pertaining to the investigation of mobile device, computer and internet crimes.

2. On 01/13/2017 at or about 0727 HRS, Warren Police Officers responded to 30562 Berghway Trail in the City of Warren to investigate reports of a shooting that had just occurred.

   Upon arrival, Officers discovered that a black female later identified as Julii Larrie Johnson 08/25/1982 had been shot multiple times. She was transported by Warren Fire Department personnel for medical treatment but was later pronounced deceased.

3. Officers on scene detained Johnson's boyfriend and original 911 caller Jim Terrell Lattner 09/08/1974.

4. Investigators have identified Marcie Tashonnie Griffin, a black female born 02/13/1971 as a person of interest in this incident. Marcie Griffin and Jim Lattner have children in common. Witnesses, family members and those close to Julii Johnson and Jim Lattner relay that Marcie Griffin has made threatening statements against Julii Johnson and has used her position with a utility company to obtain personal information regarding Julii Johnson.

5. Affiant examined cell phones seized from the scene where I located several text message threads in phones owned and possessed by LATTNER which appear to depict conversations between Jim Lattner and Marcie Griffin. Griffin is using phone numbers 313-289-4853 and 313-932-0393 to send and receive text messages with Jim Lattner. The content of the text messages is at times inflammatory and threatening in nature towards both LATTNER and Julii Johnson. The text message threads make specific reference to a person named only as "Man Man" who may be seeking Lattner for the purpose of violence.

6. Through the course of this investigation, Investigators discovered that Marcie Griffin is issued a company cell phone through her employer with assigned phone number 313-289-4853, the same number as found in Jim Lattner's phone.

7. Based on the above facts and circumstances, Investigators secured a search warrant to obtain records against 313-289-4853. Investigators also seized this phone as evidence during an attempted interview of Marcie Griffin.

8. Affiant was provided with the cell phone with assigned number 313-289-4853 seized from Marcie Griffin. Upon examining this phone, I discovered that it had been completely erased on or about 01/13/2017. The first recorded activity on this phone was on 01/13/2017 at or about 12:00pm.

9. Affiant received a return on records for 313-289-4853 revealing that Marcie received in incoming text message from 313-768-4616 on 01/12/2017 @ 8:44pm. The first recorded text message on 07/13/2017 is an incoming message from this same number @ 09:17am. This phone number is NOT owned by Marcie's employer.

10. Affiant performed records checks of this phone number with negative results.

11. Investigators identified Marcie Griffin's employer as SEEL LLC located at 1400 Howard St in the City of Detroit. Investigators responded to this location where they obtained surveillance video for January 13th. On the video, Marcie Griffin is observed arriving at or about 0852 HRS.

    Marcie exits the building at 0855 HRS and enters the front passenger seat of a white Jaguar 4-door sedan. Marcie returns to 1400 Howard at 0941 HRS; departing again at 0947 HRS.

    Marcie returns one final time at 1721 HRS; departing at 1723 HRS.

12. Based on the above facts and circumstances, Affiant believes that the possessor of 313-768-4616 will hold valuable information that will further the investigation of this homicide. Records regarding this phone number will also assist in the furtherance of this investigation.

13. Since the possessor of this phone is unknown, it is necessary for investigators to capture the GPS location of this device in an effort to locate and identify its user.

14. It is Affiant's prior training and experience that cellular telephones are the preferred medium for the planning, coordination and execution of illegal activity. Cell phones are inexpensive, easily obtained, can be registered anonymously and are easily destroyed. Most persons possess cell phones for personal use and use them as a means of communication. Cell phones are by nature portable and mobile.

15. It is Affiant's prior training and experience that cell phone providers maintain records of voice and SMS activity both incoming and outgoing from a cell phone. Having access to this information will assist in the furtherance of the investigation and assist investigators in determining the historical location of this device based on interactions this device had with cell phone towers.

16. It is Affiant's prior training and experience that cell phones are often equipped with technology that allows the user and / or service provider to determine the precise location of the device. Having access to this information will assist in the furtherance of the investigation and aid in the identification of his whereabouts.

17. Based on the above facts and circumstances, Affiant believes that probable cause has been established to obtain the requested records. Affiant is requesting that this Honorable Judge sign the affidavit.

This Affidavit consists of 3 pages

Affiant:

Subscribed and sworn to me on: JAN 27 2017

Judge / Magistrate

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

PEOPLE OF THE STATE
OF MICHIGAN,
People,

vs. Case No.: 2017-3420-FC

GEORGE RIDER
Defendant.
_____/

JURY TRIAL
BEFORE THE HONORABLE JOSEPH TOIA
Mount Clemens, Michigan - Tuesday, March 26, 2019

FOR THE PEOPLE:
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Macomb County Prosecutor's Office
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FOR THE DEFENDANT:
Marcie Griffin
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EXHIBIT F

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So, I'll ask each of you -- we'll start with Mr. Rodnick. Mr. Rodnick, if you would please stand, introduce your client, and any potential witnesses.

MR. RODNICK: I'm just looking for my witness list, sorry.

THE COURT: I understand.

MR. RODNICK: I set it down somewhere. One moment.

THE COURT: Let me start with -- did you find it? We can start with Mr. Flood and we'll work our way back.

MR. RODNICK: (Inaudible).

THE COURT: Mr. Flood, are you ready, sir?

MR. FLOOD: Yes.

THE COURT: If you could introduce your client, your colleagues, and any witnesses, any potential witnesses?

MR. FLOOD: Thank you, your Honor. Good afternoon. My name is Todd Flood. This is Kevin Simovski. This is Marcie Griffin; this is our client.

We have several witnesses. They're listed on the prosecution's witness list. If we call anyone, it would duplicative of what is going to be read off, so I'd rather just save time and have them read off one time only. Thank you. Thank you, your Honor.

THE COURT: All right.

MR. FLOOD: One other person, Peter Martell is one of our clerks. You'll see him every once in a while in and out of the courtroom. Thank you.

THE COURT: All right. Thank you. Ms. Kostovski.

MS. KOSTOVSKI: Good afternoon, everyone. I'm Suzanna Kostovski and I'm representing my client, George Rider.

* And we have three witnesses that we've identified in addition to what the prosecution has identified and they are Gloria Ray, James Lattner, and Larry Rider. Thank you.

THE COURT: All right. Thank you. Mr. Rodnick, are you ready to proceed?

MR. RODNICK: Yes. Thank you, ladies and gentleman. I'm Randy Rodnick. I represent my client, Mr. Gibson here. My associate Robert Piraino will be in and out. You'll see him occasionally helping out.

My witnesses are, of course, my client and co-defendants. We may have an independent expert for DNA

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

PEOPLE OF THE STATE OF MICHIGAN,

People,

vs. Case No. 2017-3420-FC

GEORGE GERALD RIDER

Defendant.
_____/

EVIDENTIARY HEARING,

BEFORE THE HONORABLE JOSEPH TOIA

MOUNT CLEMENS, MICHIGAN - WEDNESDAY, NOVEMBER 21, 2018

APPEARANCES:

FOR THE PEOPLE: JURI FEDORAK -P46866
Macomb County Prosecutor's Office
1 S Main Street
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(586) 469-5350

FOR THE DEFENDANT: SUZANNA KOSTOVSKI - P39535
Law Offices of Suzanna Kostovski
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EXHIBIT G

I N D E X

WITNESS/PROCEEDINGS:		PAGE
GEORGE RIDER		
	Direct Examination by Ms. Kostovski	7
	Cross-examination by Mr. Fedorak	21

E X H I B I T S

NUMBER	IDENTIFICATION	PAGE
PX #1	Warrant, signed 1/27 (pinging phone	82
PX #2	Affidavit & Search Warrant (three phones)...	82
PX #3	Affidavit	82

only involved that particular warrant, but there was, also, a warrant that was signed after the seizure of all three phones. Okay.

THE COURT: Okay.

MS. KOSTOVSKI: Which was -- two of which were seized without a warrant. They were just taken. And that was the testimony that Mr. Rider gave you a little bit earlier, that he didn't consent for them to take the phone or take the vehicle or do anything. And that was part two of the hearing that took place before Judge Faunce. And the warrant that was signed after the seizure of the other phones was signed by her sister down in Warren district court, and that's why we're here in front of you.

In other words, there's no dispute here that Detective --

THE COURT: So, who was this one signed by?

MS. KOSTOVSKI: This one, I don't know.

MR. FEDORAK: The second one?

THE COURT: This one, A and B.

MS. KOSTOVSKI: I can't --

THE COURT: I can't, I don't know.

MR. FEDORAK: The first one pinging the phone was 1-27.

THE COURT: Right.

MR. FEDORAK: The second one --

THE COURT: Who signed that one?

MR. FEDORAK: -- going into the phones was 2-4.

MS. KOSTOVSKI: Right.

THE COURT: Who signed 1-27?

MR. FEDORAK: I can't read that writing. Is that -- I think it's Judge Chupa, Michael Chupa.

MS. KOSTOVSKI: Is that Judge Chupa?

THE COURT: It might be Michael Chupa.

MS. KOSTOVSKI: I don't have it. I gave my copy to the judge.

MR. FEDORAK: Maybe Detective Bozek will recognize his signature. I assume that's Chupa.

MS. KOSTOVSKI: Because it was Detective Roy, I think, who got it.

DETECTIVE BOZEK: That's Chupa. Mike Chupa signed it.

MS. KOSTOVSKI: Chupa, no, he didn't sign, he signed --

THE COURT: So, do you want to continue then?

MS. KOSTOVSKI: Yeah, I think it would be helpful for the court to take testimony --

THE COURT: Okay.

MS. KOSTOVSKI: -- regarding the, I guess,

part two of the motion to suppress.

MR. FEDORAK: Well, Judge, if I could ask for an offer of proof. Maybe I'd be willing to stipulate to it.

MS. KOSTOVKSI: It's up to you.

THE COURT: Go ahead.

MR. FEDORAK: Well, I guess, what's the offer of proof?

MS. KOSTOVSKI: What?

MR. FEDORAK: What other testimony do you think you need to elicit to attack the lack of probable cause based on --

MS. KOSTOVSKI: Okay.

MR. FEDORAK: -- the affidavits?

MS. KOSTOVSKI: Well --

THE COURT: We're talking only about the 1-27-17 warrant, right?

She's trying to go beyond this warrant and get to the other warrants dealing with the other phones, right?

MS. KOSTOVSKI: Right. The phones that were seized --

THE COURT: She's trying to move on to the next warrants.

MR. FEDORAK: I understand that. But I'm

saying other than what's in the affidavits, what additional testimony does counsel want to argue?

I'd be willing to stipulate to it, possibly, if I knew what it was, to then give the court the opportunity to rule.

MS. KOSTOVSKI: Well, are you going --

MR. FEDORAK: What else has to be elicited?

MS. KOSTOVSKI: Are you going to stipulate that Detective Rushton took the other phones and did not have a warrant for them when he took them?

MR. FEDORAK: I think what we can stipulate to, Judge, is, he didn't know which phone was which. So, he had a warrant -- he had two phones on his person and another phone in the car. So, the two that he had on his person, clearly, he had the right to seize. New York v. Belton, clearly gives the seizure of a vehicle based on its exigent circumstances always being able to be moved. We can go back to criminal law 101. It might have had evidence of possibly related to the homicide.

And, then, there was a phone in that car. And, again, given the contact between that pinging phone that day with the main suspect the night before, and two hours after the murder, all of that is connecting the dots and can be seized as evidence. So, he seized it

all based on the pinging warrant and then got warrants to do the data dump afterwards. Absolutely, I'd stipulate to that the way I just -- the way I just phrased it.

MS. KOSTOVSKI: Well, but that's putting the cart before the horse, Judge. What were the exigent circumstances? I think that's what they're trying to argue, the warrant to seize the rest of the stuff that they seized at the car wash.

What were the exigent circumstances? Mr. Rider was in custody. Whether he was temporarily detained or not, he was in custody. So, they had plenty of opportunity to go to the court or call a district court judge and say, hey, we're going to seize some other stuff, he's in custody, he's being detained, and can you sign a search warrant.

They didn't do any of that. They did everything after the fact and went to Judge Faunce, and that would be Exhibit C, which hasn't been introduced yet. But --

MR. FEDORAK: Counsel is asking what is my -- I'm sorry, I didn't mean to interrupt. If counsel has completed, I'd like to respond before I forget.

If you're asking me what the exigency is, Judge, in point number eight of the first search

warrant, January 27, affiant was provided with a cell phone number assigned to Marcie Griffin, (313)289-4853. Upon examining this phone, the affiant discovered that it had been completely erased on or about 1:13, the morning of the murder. So, if counsel is asking what is it -- why did the defendants -- why did the detectives have to seize that phone, what was the exigency, we have phones that were turned dark for two weeks. By the mere nature of the actual item, the Supreme Court has already ruled that cars, based on exigent circumstance, in New York v Belton, could be seized. That's all criminal law 101. Cell phones even give more reasons why you have to seize them on the one and only opportunity, because that may be the only one opportunity you ever have to seize it, or else it's either going to disappear or be erased; disappear based on its mobility, just like a car.

So, that's why the car seizure and the phone seizure was totally legitimate. And it's already supported in point eight in the first affidavit on January 27th.

So, an exigency argument, your Honor, I think is just ludicrous, as saying, hey, there's an unknown phone number calling -- contacting the main suspect, you don't have probable cause to search that, police, but ignore that. That's a ludicrous argument.

MS. KOSTOVSKI: Judge, Judge, what was the exigent circumstances here? Again, they had Mr. Rider in custody. They had the truck, his vehicle. They had the phones. They could have gotten a warrant to seize those phones before they actually seized the phones and the vehicle. He wasn't going anywhere. He wasn't going anywhere.

They did -- they obtained this warrant from Judge Faunce, Suzanne Faunce. And, again, I don't know what time -- and that would be Proposed Exhibit C, which I think you want to stipulate to.

MR. FEDORAK: Absolutely.

MS. KOSTOVSKI: And that was done on 2-4-17. I assume it was done, I don't know how long after they seized everything from Mr. Rider and left him, you know, at the car wash. I don't know when this warrant was signed or, you know, if this affidavit was presented. It never says on these, the time, but I believe it was after the fact.

So, what was the exigent circumstances for them to take this stuff and, then, get a warrant after the fact?

MR. FEDORAK: Judge, it's just like seizing . something that could be possible evidence in a murder. I'm going to seize that gun of your person, I'm going to

seize that baseball bat, I'm going to seize that clothing, and then I'm going to get a search warrant to see if it's got DNA or fingerprints on it.

This is an electronic device, just like the laptop computer, all these smart phones. And, what they did is they seized something and then they went to a judge and said, here's our probable cause, judge, we want to look and get a data dump out of it, and then we want to get the records from the carrier of the cell phone company as to the historical data. They seized evidence. They're connecting the dots in a possible murder and as they seize something electronic, then they go get a warrant.

And don't forget, Judge, this is not like US v Carpenter, that I've been hearing for the last year-and-a-half, is (inaudible) on this case. US v Carpenter was a case where the D.E.A. in Detroit were privately pinging a phone to find it, seized it, and, then got a search warrant to do the data dump.

In this case, the officers got a court order, a court-approved order at the first step to even go start pinging it. So, US v Carpenter is out the window. It doesn't apply because they had a warrant to ping. And, then, once they started finding the phones, they got more warrants to get inside those phones. They did

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

PEOPLE OF THE STATE
OF MICHIGAN,
People,

vs. Case No.: 2017-3420-FC

GEORGE RIDER,
Defendant.
_____/

MOTION,

BEFORE THE HONORABLE JOSEPH TOIA,

Mount Clemens, Michigan - March 6, 2019

APPEARANCES:

FOR THE PEOPLE: JURIJ D. FEDORAK - P46866
Macomb County Prosecutor's Office
1 S Main Street
Mount Clemens, MI 48043
(586) 469-5350

FOR THE DEFENDANT: SUZANNA KOSTOVSKI - P39535
Law Offices of Suzanna Kostovski
220 Bagley St Ste 1018
Detroit, MI 48226
(313) 965-605

Elaine M. Vozza Mada, CSR, RPR
Official Court Reporter
Macomb County Circuit Court
Mount Clemens, Michigan 48043
(586) 307-8238

EXHIBIT H

I N D E X

WITNESS/PROCEEDINGS:	PAGE
None Offered	

E X H I B I T S

NUMBER	IDENTIFICATION	PAGE
None Offered		

March 6, 2019

Mt. Clemens, Michigan

At about 10:37 a.m.

(REPORTER'S NOTE: "Inaudible" means a word or words were not heard well enough to be able to discern a proper interpretation either because of shuffling of papers, or the speaker did not amplify loud enough or was not picked up by a microphone.)

* * *

COURT CLERK: 2017-3420-FC, People versus Rider.

THE COURT: If I may have your appearances. Up here, please.

MR. FEDORAK: Good morning, your Honor. May it please the Court, Jurij Fedorak representing the People.

THE COURT: Your name, sir.

MR. RIDER: George Rider.

THE COURT: All right. Good morning. Your name, please.

MS. KOSTOVSKI: Good morning, your Honor. Suzanne Kostovski appearing on behalf of Mr. Rider.

THE COURT: All right. Good morning.

So we're here on a motion hearing, I believe, correct?

MS. KOSTOVSKI: Correct. Mr. Rider filed an in pro per motion for disclosure, inspection and preservation.

There's a whole list of items that Mr. Rider is seeking in the motion. I assume the Court has read it.

THE COURT: I have read the motion. I'm not sure how many of those actually pertain to this case or how or what, what is actually available or relevant to this case. But I'll wait to hear from either you or the prosecutor.

MR. FEDORAK: Judge, I don't think practically anything. I can quickly go through it if the Court wants me to go point by point.

THE COURT: Well, let's go through it.

So, which one are we on? I've got two different motions.

MR. FEDORAK: Well, Judge, I've got a motion that was filed and kind of a letter that was filed before the Chief Judge, Judge Biernat, which was dated February 21st. I received that interoffice from Judge Biernat's court.

Is your Honor addressing any of those concerns today?

Do you have a copy of that, Judge?

THE COURT: Let's see. I have this motion. Let's see. So I have one that's time-stamped February 25th, 2019.

MR. FEDORAK: I can address that one first.

THE COURT: It starts with, item one, defendant presently stands accused of violation of MCL 250.316.

MR. FEDORAK: Yes.

THE COURT: Is that the one you have?

All right. Let's go through that.

MR. FEDORAK: Well, points one, two, three, and four are basically procedurally, why we're, why we are here today, regarding the cases, and so forth, the --

THE COURT: Okay.

MR. FEDORAK: -- allegations on the case that's scheduled for trial on the 19th.

THE COURT: Right.

MR. FEDORAK: In 4A, your Honor, he starts to ask for things that I don't think apply to this case whatsoever. And, your Honor correctly indicated that I have nothing to do with the federal violent crimes task

force. We are not using any of that information in this case. So A does not apply.

MS. KOSTOVSKI: I will just make one comment, Judge.

THE COURT: Okay.

MS. KOSTOVSKI: And that is Detective Bozek's report references the violent crimes task force. He, Officer Taylor of that crimes task force assisted them in locating, I guess, Marcie's niece, Barbara Bellamy.

MR. FEDORAK: Correct, as a potential witness. The bottom line, Judge, is the defendant is pointing to a meeting that took place, and I was at this meeting, and it's my work product. It was basically all the investigators on the homicide getting with all other potential cases against the defendant. It's now public record, so I can disclose this, your Honor. I believe it's public record.

MS. KOSTOVSKI: What?

MR. FEDORAK: If I may have just a second.

(At about 10:41 a.m., Discussion Off the Record).

MS. KOSTOVSKI: Well, I don't know if he's been federally indicted but there was a federal investigation, to my knowledge, involving Mr. Rider.

MR. FEDORAK: Correct, your Honor.

MS. KOSTOVSKI: But I don't know if he's been indicted.

THE COURT: He knows.

MS. KOSTOVSKI: Do you know?

MR. RIDER: Excuse me. I have not been indicted.

THE COURT: Okay.

MR. RIDER: And I would like that -- and I have a problem with this. Why would the government be interfering with this case?

MR. FEDORAK: I guess I can respond to this, Judge. I could care less what the defendant feels that people are interfering with this case. I am a Macomb County prosecutor. I've charged him with the murder of Julii Johnson and we are proceeding to trial on it.

What other legal problems he has, other jurisdictions are investigating him, does not apply to the case that's before your Honor. And, how he wants to muddy this water and keep filing frivolous motions and wasting our time and your time, Judge, he doesn't have a right to any of this.

I have given counsel a copy of a witness list, I have given counsel a copy of a shortened witness list, I've given counsel all the discovery that he's asked for in this case, that he's entitled to, and I've even given

him extra; the Power Points and how we're going to proceed, because it's going to basically be a repeat of a very lengthy preliminary examination that started this case.

Everything that he asked for in this case is either irrelevant or has been turned over, and I would ask counsel if she can point to me what she thinks she has a right to, and I would be happy to address that specific point. But, to constantly say I'm entitled to all these notes from federal agents that are investigating me, Judge, I got nothing to do with that.

MS. KOSTOVSKI: Well, your Honor, I believe that the information requested regarding the February 2rd, 2017 meeting is relevant, and here's why. Information was being shared between the federal agents, the Warren police. Mr. Fedorak was at the meeting, from what I understand. It's referenced in Detective Bozek's report, on page. I believe it's page 76 of his lengthy report, where he says he was going to set up this meeting with -- like a task force. So, I think that we're entitled to find out what went on at that meeting, if there's anything regarding this homicide investigation.

MR. FEDORAK: Judge, I --

MS. KOSTOVSKI: Because the question, Judge,

present on December the 20th, the federal agents made some comments during the meeting that Mr. Rider is supposedly responsible for 20 homicides and they're investigating him for 20 homicides.

THE COURT: So what does that have to do with this case?

MS. KOSTOVSKI: Well, again, as long as there's nothing that they're going to try to taint this case with statements from agents during meetings about what they suspect or what they believe or what they think, we don't have a problem.

THE COURT: Well, the only one that I see, so far, that's bringing up this information and tainting the record, to use your term, is your client.

MS. KOSTOVSKI: Well, I think he's concerned that we not be surprised at trial about anything --

THE COURT: You have a witness list.

MS. KOSTOVSKI: I do. I do.

THE COURT: You have --

MS. KOSTOVSKI: Detective Bozek was there at the meetings, both meetings. So as long as we have confirmation that they are not going to bring in anything that they have not disclosed to us about what went on at these meetings during this trial --

THE COURT: Again, how are the meetings

relevant to the facts and circumstances of this case, in terms of admissible evidence?

MS. KOSTOVSKI: Well, that's what I'm trying to find out, Judge, what went on at the meetings that -- you know, and Mr. Fedorak is saying he's not going to introduce anything.

MR. FEDORAK: Correct. Not relevant. Doesn't have anything to do with the murder of Julii Johnson.

MS. KOSTOVSKI: Now, there's also -- and that's fine, Judge.

THE COURT: Okay.

MS. KOSTOVSKI: And we're okay with that statement on the record.

THE COURT: All right.

MS. KOSTOVSKI: There's also information regarding there being a cigarette butt at the crime scene, and I'm trying to figure out if any investigation was done with respect to that, because, apparently, Mr. Lattner, who was Julii Johnson's live-in boyfriend called a plumber that morning, who came out.

MR. FEDORAK: Judge, I guess that's great cannon fodder for cross-examination of the detectives, if they did a thorough job investigating all the evidence at the scene. Why we're standing here today, when I've turned over all discovery, I would argue is

simply just a waste of time, mine and yours; more importantly your Honor's.

MS. KOSTOVSKI: I'm just asking, Judge, if they have any evidence or if they followed-up on anything regarding that cigarette butt at the crime scene.

MR. FEDORAK: It's all in the discovery. And, a great cross-examination would be, Detective, why didn't you do this, why didn't you do that.

Everything he did, she's got, they've had for two years.

THE COURT: Again, is there something missing?

MS. KOSTOVSKI: No, your Honor.

THE COURT: I mean, to answer a question why, I mean if, if it's not part of what was provided to you, if there's no report, I suppose you could ask if there's any follow-up report. He's indicated on the record now, which I would hold them to, that there's no additional evidence that has not been provided to you.

MS. KOSTOVSKI: All right, Judge. With that promise and stipulation on the record, I have nothing further to add.

THE COURT: Well, I want to talk about the rest. He's asking for mental health history files and records, including diagnosis of any witnesses the

prosecution intends to call at trial.

Now, you've been practicing for, I'm sure, many, many years. Do you really think that your client's entitled to that?

MS. KOSTOVSKI: Unless it's an issue in the case, they're really not entitled to it.

THE COURT: Okay. Substance abuse history of all witnesses the prosecution intends to call at trial, service record and history of any and all state, federal officers, agents, detectives, investigators the prosecutor intends to call at trial; disciplinary actions and sanctions, scout car video recordings; all Warren police department.

I mean, it's evidence that you're entitled to is what needs to be provided to you.

All this, what is all this, Ms. Kostovski?

MS. KOSTOVSKI: Well, I think what Mr. Rider is attempting to do is get background information to see if there have been any disciplinary issues with the law enforcement officers that are going to testify, if they've been, you know, disciplined for their actions as law enforcement officers, for example, in other cases. And you hear this, Judge, you know, these cases come up where things, the police, the lead investigator or the others get themselves into trouble, for example,

MS. KOSTOVSKI: And I don't believe there's any expert witnesses that I've seen.

MR. FEDORAK: Ballistics, ATF.

MS. KOSTOVSKI: Ballistics, yeah.

MR. FEDORAK: DNA, but we've talked about that.

And, Judge, actually, counsel and I have worked, I think, very well together, all three of us. And even counsel for Ms. Griffin is present in the courtroom just for scheduling purposes. And I even, so the Court is aware, I've paired down the witness list, I've sent them my line-up of who we're going to call. We've been working together to streamline it, not to waste your Honor's valuable courtroom time, regarding the stips and everything, and everything's in place. So, once we actually start, we'll hit the ground running and move quickly.

So, I have supplied all that information, I believe, including extra, like a Power Point presentation regarding all the text messages and all the data and all that. It's basically a re-hash of what we did at the preliminary examination. So I think we'll be able to move rather quickly when we get started.

Since I've got the microphone at this point, Judge, and if I may, I don't mean to ask something of

the Court that, that is too much, but Ms. Kostovski has filed a motion to adjourn and, technically, it's up on Monday. I think it would serve all parties, if your Honor doesn't mind, shedding some light, sharing your wisdom with us as to what you're going to do, that we're stuck in the rock and a hard place with the federal court demanding Ms. Kostovski's appearance on the 19th of March for a federal trial that's a 180-day trial.

I believe that's why -- I don't mean to speak for Mr. Flood's office, but that's obviously why they're here. And I got to be honest with you, Judge, the detective and I have gone through these subpoenas three or four times already leading up to today and it's creating a nightmare for us, as well, in terms of scheduling.

So, if I may impose on the Court what your thoughts are.

MS. KOSTOVSKI: I can give you somewhat of an update as far as the proceedings in Bay City.

THE COURT: All right.

MS. KOSTOVSKI: My client is not going to take a plea and he's not going to waive the speedy trial. So I have a 4:00 final conference today, in Bay City, in front of Judge Luddington, to basically shore up the trial and, you know, the things we need to get done;

In the Superior Court for

The 16th. Judicial Circuit Court

Macomb County, Michigan

In the Matter of

People of the State of Michigan,

Plaintiff,

-vs-

George Rider,

Defendant.

Affidavit of Truths and Facts

Of

Lawrence Rider-El

State of Michigan.)

)ss:

County of Macomb)

EXHIBIT I

I Lawrence Rider-El, being of legal age and sound mind, do hereby affirm, without any forms of threat, coercion, or duress, knowingly and voluntarily say that the following avers are true and accurate to the best of my knowledge and belief. I depose knowing that if any are found to be false, that I face the penalty of perjury under the laws of the State of Michigan and am willing to testify to these statements if called upon by the court.

Affiant,

1. I, Lawrence Rider-El, am the biological brother of George G. Rider. I am a non-citizen national of the United States, born in Detroit, MI.

2. I , Lawrence Rider-El on January 9, 2017 drove myself, Eric Gibson and George Rider to Home Depot in Dearborn, MI.

3. I, Lawrence Rider-El met Marcie Griffin at Greektown Casino approximately nine years ago.

4. I, Lawrence Rider-El and Marcie Griffin did become close friends during a three year friendship from 2015 to 2018.

5. I, Lawrence Rider-El had lost contact with Marcie Griffin for about one week.

6. I, Lawrence Rider-El, recall the reason for losing contact with Marcia Griffin was that I had dropped my cell phone with the number 313-768-4616 in the dishwater at my residence. Due to water damage I could not see my screen display in order to view incoming calls, messages, contacts etc.

7. I, Lawrence Rider-El, was approached by a female friend of Marcie Griffin at a social gathering on or about January 10th, 2017. Said friend, that I did not recognize as a friend of Marcie Griffin, told me that she was present at a get together in Detroit, Michigan that I and Marcie Griffin had both attended. She recognized me, informed me of her name, however I have long forgotten the name she gave.

8. I, Lawrence Rider-El asked the unknown female whether she could give me Marcie Griffin's cell phone number. She replied that she could not as she didn't believe it was appropriate.

9. I, Lawrence Rider-El, wrote my phone number 313-768-4616 on a piece of paper and asked the unknown female if she could give Marcie Griffin my cell phone number.

10. I, Lawrence Rider-El, gave the piece of papers containing my cell phone number to the unknown female and instructed her to tell Marcie Griffin that my phone was water damaged, that is the reason I have not been in contact with her. Unknown female agreed to give my cell phone number to Marcie Griffin and we departed.

11. I, Lawrence Rider-El on January 12th, 2017 was in the possession of the cell phone with the number 313-768-4616 placed in a bag of rice so it may dry out.

12. I, Lawrence Rider-El on or about January 13th, 2017 at approximately 9: 15 a.m., text a message to Marcie Griffin using a Samsung cell phone with the number 313-768-4616.

13. That I, Lawrence Rider-El texted Marcie Griffin, "Today is a beautiful day. Friday the 13th.

14. I, Lawrence Rider-El wrote the text Friday the 13th referencing the number 13 as a number of inspiration, the number 1 equates to GOD and the number 3 equates the relationship man and woman establishes with the creator.

15. I, Lawrence Rider-El recognize my friendship with Marcie Griffin as it encompassed to the teaching of the Moorish Science Temple of America and when I text Marcie Griffin the supra mentioned, I followed up with "I hope you understand", as we had previously discussed the meaning of holidays and special days such as Friday the 13 and the scientific meaning of the same.

16. I, Lawrence Rider-El received a text response from Marcie Griffin stating "Everything; I understand".

17. I, Lawrence Rider-El, state that my conversation with Marcie Griffin was purely friendly and religious based. Marcie Griffin and I previously discussed her attending a Moorish Science Temple of America Friday Services.

18. I Lawrence Rider-El further state the meaning and basis of my communication with Marcie Griffin on January 13th, 2017 was of a muslim nature in which I expressed to Marcie Griffin that today is a beautiful day, because Friday is the day in which man was free in flesh and it was on a Friday that he departed out of flesh and ascended on to his father GOD Allah and for that reason Friday is the Holy Day for all muslims all over the world.

19. I, Lawrence Rider-El in no way or form intended the above communication with Marcie Griffin directly or indirectly to indicate any wrong doings on my behalf, Marcie Griffin's behalf, or any other person(s) behalf.

20. I, Lawrence Rider-El also recall meeting her at the Hard Rock Cafe on Woodward Ave. in downtown Detroit.

21. I, Lawrence Rider-El spoke to Suzanna Kostovski on at least two occasions regarding this information. She knew George Rider could not have texted Marcie Griffin because I had possession of the phone with the number 313-768-4616 and George Rider never met Marcie Griffin.

22. I, Lawrence Rider-El, was in possession of the company cell phone owned by Midtown Entertainment Group LLC. with the number 313-768-4616. I was an employee of the company working for Gloria Ray.

23. I, Lawrence Rider-El was in possession of this company cell phone on January 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th and 17th of the year 2017.

24. I, Lawrence Rider-El went to the Meijer Store location on Mound Rd. in Warren, MI.

25. I, Lawrence Rider-El on February 3, 2017 picked up several cell phones from the fine arts theater at 2952 Woodward Ave. Detroit, MI., and took them to Gloria Ray residence at 29801 Greater Mack Ave., St. Clair Shores, MI.

26. I, Lawrence Rider-El was put on the witness list at George G. Rider trial but his attorney Suzanna Kostovski never called me.

Affiant says nothing further.

Juraut

I, Lawrence Rider-El, state that the supra statements of facts and truth are accurate and true to the best of my knowledge, information and beliefs. I hear by place my reliance there upon this 10th Day of the month of August of the year 2023.

Date: 8-10-2023

X: _____

Lawrence Rider-El

"AR R11

STEPHANIE KIDD
Notary Public, State of Michigan
County of Macomb
My Commission Expires Jul. 12, 2024
Acting in the County of Wayne

Notary Public _____

Sworn before me on this 10th day of August 2023

My commission expires on: 7-12-2024

_____
Witness

_____
Witness

Dated August 10th 2023.

STATE OF MICHIGAN

IN THE 37th JUDICIAL DISTRICT COURT

FOR THE COUNTY OF MACOMB

THE PEOPLE OF THE STATE OF MICHIGAN,

v Case No: W171417,

GEORGE GERALD RIDER,

Defendant.

_____/

THE PEOPLE OF THE STATE OF MICHIGAN,

v Case No: W171418,

MARCIE TASHONNIE GRIFFIN,

Defendant.

_____/

THE PEOPLE OF THE STATE OF MICHIGAN,

v Case No: W171416

ERIC MALCOM GIBSON,

_____/

Defendant.

SWEAR TO

BEFORE THE HONORABLE MATTHEW P. SABAUGH, DISTRICT JUDGE

Warren, Michigan - Wednesday, February 22, 2017

EXHIBIT J

APPEARANCES:

None

RECORDED BY: Danielle L. Galasso - CER 8740

TRANSCRIBED BY: Nichelle A. Graybill - CER 7653
Certified Electronic Reporter
586.574.4935

TABLE OF CONTENTS

WITNESSES:	Page:
None	

EXHIBITS:	Identified	Admitted
None		

Warren, Michigan

Wednesday, February 22, 2017 - 3:08 p.m.

THE COURT: Court is in session. Calling the matters of People versus Marcie Tashonnie Griffin, People versus George Gerald Rider, People versus Eric Malcolm Gibson, Files 171418, 171417, 171416.

Good afternoon, Detective Bozek, state your appearance, please?

MR. BOZEK: Detective Bozek, Warren Police Department.

THE COURT: Please raise your right hand. Do you swear or affirm the following statements are the truth on knowledge, information, and belief?

MR. BOZEK: I swear, your Honor.

THE COURT: Thank you.

(At 3:09 p.m., Detective Bozek sworn by the Court)

THE COURT: Please swear to the warrants, Detective.

MR. BOZEK: Your Honor, on January 13th, 2017 George Rider and Eric Gibson drove together driving a rented Nissan Pathfinder to the parking lot of LA Fitness, located at 30195 Mound. Eric Gibson exited the vehicle and walked past the building to use a pathway to the neighboring residential neighborhood. Eric Gibson

waited outside of 30562 Berghway Trail for Julii Johnson to exit her house walking to her car. Eric Gibson approached Julii Johnson, shooting her with a nine millimeter handgun multiple times to the chest and one shot to the forehead killing Julii Johnson.

Eric Gibson was seen leaving the crime scene by two independent witnesses, running towards the LA Fitness parking lot. Eric Gibson enters the same Nissan Pathfinder, and borth -- both George Rider and Eric Gibson drive away.

Further investigation supports that Marcie Griffin solic -- solicited George Rider, who then enlisted Eric Gibson to carry out the execution of Julii Johnson.

State's asking for Eric Malcom Gibson, count one of homicide murder in the first degree premeditated, count two weapons felony firearm, and count three weapons firearms receiving and concealing.

For George Gerald Rider, count one of homicide murder in the first degree premeditated.

And for count one for Marcie Tashonnie Griffin, homicide murder first degree premeditated.

THE COURT: Where was Marcie Griffin?

MR. BOZEK: She was not present at the time, but she's the person that put the -- the organized hit,

so to speak, in -- in motion.

THE COURT: Now what -- what information -- what -- what did your investigation reveal regarding her actions?

MR. BOZEK: Through -- through interviews we learned that the history of Marcie Griffin that she had threatened over a period of three years, Julii Johnson, supported by text messages and a recorded cell phone video of a tirade that she -- that she had between her and Terrell Lattner, the boyfriend of Julii Johnson. That video shows her threatening in support of the threats. Through cell phone forensics we can connect the link between George Rider and then link back to Eric Gibson. Further text messages support that she paid an unknown fee to have this done.

THE COURT: You -- you're asking for a charge of receiving concealing a stolen firearm for Eric Gibson?

MR BOZEK: Sorry, your Honor, on that -- on that charge, during the investigation we did recover a nine millimeter handgun, Smith and Wesson, near the crime scene in the path of that we believe taken by Eric Gibson, as well as a pair of gloves that were found within thirty feet of that -- that gun. That handgun's believed to be the murder weapon, it's the same caliber, has the same type of casing cartridges manufactured of

ammunition as found next to the body. And the serial numbers shows that it was from a stolen shipment of fifty of a group of handguns that were being delivered from South Carolina to the state of Illinois.

THE COURT: Thank you.

The Court having heard the sworn statements of the Detective does find that probable cause has been established for each of the charges requested for each of these three co-defendants. The warrants are hereby authorized.

MR. BOZEK: Thank you, your Honor.

THE COURT: Thank you.

(At 3:12 p.m., proceedings concluded)

******

STATE OF MICHIGAN)

COUNTY OF MACOMB)

I, Nichelle A. Graybill, certify that this transcript, consisting of 8 pages, is a complete, true, and correct transcript, to the best of my ability, of the proceedings and testimony taken in this case on Wednesday February 22, 2017.

October 26, 2023

NICHELLE A. GRAYBILL, CER-7653
Certified Court Recorder
8300 Common Road
Warren, Michigan 48093
586.574.4935

11-30-23

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

Case No. 17-003420-FC

v

GEORGE RIDER,
Defendant.

Affidavit of Scott Lewis Mischnick

BEFORE ME, the undersigned Notary, personally appeared Scott Lewis Mischnick, who being by me first duly sworn, on his oath, deposes and says:

1. My name is Scott Lewis Mischnick, and I make this affidavit from personal knowledge of the matters addressed herein.

2. I am a licensed private investigator in the State of Michigan. I am a former TV investigative reporter with over 30 years of investigative experience, and I go by the professional name of Scott Lewis. The name of my company is Scott Lewis Private Investigations.

3. On June 13, 2023, I was retained to do investigative work for an appeal in the above captioned case. Among other things, I was asked by George Rider to obtain a copy of the arrest warrant and affidavit for his case.

4. On September 18, 2023, I called the clerk's office at the 37th District Court in Warren and requested these documents. A clerk advised me that they would not have these records because once a case is bound over for trial, the file is moved to the Macomb County Circuit Court.

5. On the same day, September 18th, I ordered the records requested by Mr. Rider, on line, from the Macomb County Circuit Court.

6. Eleven days later, on September 29th, I called the circuit court to check on the status of my request. I was advised by a clerk that their office was not in possession of Mr. Rider's file, because it was moved to the Michigan Court of Appeals. The clerk said she didn't know when the file would be returned and I would have to check back with their office.

7. On October 16, 2023, I received an email from the Macomb County Clerk's Office record room stating the following:
We have received your request for documents on 9/18/23. However, the files are still over at the Court of Appeals. We do not know when they will be returned. Thus this request is being deleted. When the files return please submit a new request for documents.

EXHIBIT K

8. On October 20, 2023, I reached the Michigan Court of Appeals docketing clerk, Stephanie Stockwell, by phone. She stated that Mr. Rider's case was currently before the Michigan Supreme Court, but she did have access to his electronic file. Ms. Stockwell then searched the file. She said that she located a complaint and arrest warrant for Mr. Rider's case, but there was no affidavit in the file. A short time later, Ms. Stockwell emailed me a copy of the complaint and arrest warrant.

9. I subsequently mailed a copy of the documents to George Rider at the Saginaw Correctional Facility.

10. The information in this affidavit is true and accurate. I have not been promised anything, bribed or coerced in any way to make this statement and I am willing to testify under oath in a court of law.

FURTHER, YOUR AFFIANT SAYETH NOT.

Scott Lewis Mischnick

[signature of affiant]
Scott Lewis Mischnick

Subscribed and sworn to before me on Nov. 30, 23, in Manatee County, Florida.
My commission expires: 12/20/2026

Signature: Cara Lane
Notary Public, Florida, County of Manatee

CARA LANE
Notary Public - State of Florida
Commission # HH 339744
My Comm. Expires Dec 20, 2026
Bonded through National Notary Assn.

Copy

George Gerald Rider-Bey, 155733
Thumb Correctional Facility
3225 John Conley Drive
Lapeer, MI 48446

March 18, 2026

Office of the Clerk
Macomb County Circuit Court
40 North Main Street, 1st Floor
Mt. Clemens, MI 48043

RE: File No. 2017-003420-FC
Hon. Joseph Toia
People v. Rider-Bey

Dear Clerk of the Court,

Please file the enclosed pleadings in the above titled case. Please notice one original and one copy marked "JUDGE'S COPY" have been filed with this Honorable Court, and that the Macomb County Prosecutor has been served one copy as evidenced by the enclosed PROOF OF SERVICE.

Should you have any questions or concerns, or require any clarification regarding this filing, please do not hesitate to contact me at the above address.

Thanking you in advance for your time and consideration in this matter, I remain.

Respectfully yours,

George G. Rider Bey

George Gerald Rider-Bey

cc: Macomb County Prosecutor ✓
File
Encl.

STATE OF MICHIGAN

IN THE MACOMB COUNTY CIRCUIT COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

File No. 2017-003420-FC

-vs-

Hon. Joseph Toia

GEORGE GERALD RIDER-BEY,

Defendant.

_____/

PROOF OF SERVICE

NOW COMES, George Gerald Rider-Bey, Defendant in pro per, and affirms that on March 18, 2026, one copy of Defendant's Motion to Amend Defendant's Motion for Relief from Judgment Based on Newly Discovered Evidence with Memorandum of Law Incorporated Therein, along with supporting EXHIBIT, was served on the Macomb County Prosecutor's Office by placing same in the mail, first class postage fully prepaid to the following address:

Macomb County Prosecutor
1 South Main Street, 3rd Floor
Mt. Clemens, MI 48043

Under the penalty of perjury, I declare that the statements above are true to the best of my information and knowledge.

Respectfully submitted,

George G. Rider Bey

Dated: March 18, 2026

George Gerald Rider-Bey, 155733
Thumb Correctional Facility
3225 John Conley Drive
Lapeer, MI 48446

STATE OF MICHIGAN

IN THE MACOMB COUNTY CIRCUIT COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

File No. 2017-003420-FC

-vs-

Hon. Joseph Toia

GEORGE GERALD RIDER-BEY,
Defendant.
_____/

MOTION TO AMEND
MOTION FOR RELIEF FROM JUDGMENT
BASED ON NEWLY DISCOVERED EVIDENCE
WITH
MEMORANDUM OF LAW INCORPORATED THEREIN

INTRODUCTION

NOW COMES, George Gerald Rider-Bey, Defendant in pro per, and pursuant to MCR 2.118(A) and MCR 6.502(F), asks this Honorable Court for permission to Amend his original Motion for Relief from Judgment Based on Newly Discovered Evidence for the following reasons:

1. After having filed his original Motion which is currently pending before this Honorable Court, Defendant received legal catchup property from his prior prison facility.

2. In that legal property, among transcripts of various proceedings, was an Affidavit from Gloria J. Ray which is submitted as (EXHIBIT "L").

LEGAL AUTHORITY

3. With the Court's permission, Defendant bases his request for amending his Motion under the auspices of Richard v. Schneiderman & Sherman, P.C., 297 Mich App 271, 274-275, 824 NW2d 573 (2012), and Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed2d 222 (1962).

4. These cases are instructive in that they warn against arguments that are frivolous, redundant, or futile. Decker v. Rochowiak, 287 Mich App 666, 682; 791 NW2d 507 (2010). Defendant asserts that his Amendment is neither.

RATIONALE FOR AMENDING

5. The purpose of this amendment is multi-facetted.

6. First, the Affidavit of Gloria J. Ray corroborates the claim of Lawrence Rider-El, that he had possession of the phone in regards to the murder on January 13, 2017.

7. Second, it validates Defendant's claim of innocence at not having the phone in question as it relates to the murder.

8. Third, it reinforces the fact that Attorney Kostovski was made aware

of these facts and potential witnesses, but did nothing about it.

9. Fourth, it corroborates Defendant's claim that he was arrested at the car wash in a vehicle containing phones; both belonging to the Midtown Entertainment Group, LLC.

10. Fifth, Affiant affirms that Defendant took their Son to school each day, making for an argument for alibi; especially had Defense Counsel Kostovski bothered to investigate the matter.

CONCLUSION

11. Based on the facts submitted as argued, and based on reliance on well-settled authority, Defendant respectfully asks that this Honorable Court grant Defendant's request to amend his current motion now pending before this Honorable Court.

12. Under the penalty of perjury, Defendant asserts that the facts and evidence submitted herein, are true to the best of his information and knowledge.

Respectfully submitted,

George G. Rider Bey

Dated: March 18, 2026

George Gerald Rider-Bey, 155733
Thumb Correctional Facility
3225 John Conley Drive
Lapeer, MI 48446

STATE OF MICHIGAN

IN THE MACOMB COUNTY CIRCUIT COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

-vs-

File No. 2017-003420-FC
Hon. Joseph Toia

GEORGE GERALD RIDER-BEY,
Defendant.

E X H I B I T

AFFADAVIT

I Gloria J. Ray am a US Citizen and I do swear under the penalty of perjury pursuant to 28USC 1746. That:

1) George G. Rider, Amir Rider and I have lived at 29801 Greater Mack Ave., St. Clair Shores, MI. 48082 for 10+ years starting in 2008.

2) I have been employed by the Detroit Medical Center a RN for over 25 years. I am currently the RN Director of Discharge Planning. My current schedule is 8:00 AM to 4:30 PM with 24 hour call and it has been that since 2010.

3) The Fine Arts Theater was being renovated during 2016 and 2017 by Midtown Entertainment Group LLC. I was working with Midtown during that time. I was overseeing parts of that renovation.

4) I would rent several cars from area rental car companies that were used for individuals working on the renovations to use to transport supplies and run errands. They needed drivers license to drive the cars.

5) There were several individuals that would use those vehicles. Eric Gibson was an associate of my son Anthony Brown and he would frequently work on the renovation project and had access to the vehicles for use.

6) Lawrence Rider would also work on the renovation project. He told me he left one of the cars at my house on February 3, 2017. He said the phone contained several cell phones that were used by the various employee's during the renovation.

7) George Rider informed me on February 4, 2017 that he had been detained and one of the rental cars had been seized at a local car wash.

8) Lawrence Rider-El told me he gave attorney Suzanna Kostovki a signed affidavit stating he had the cell phone on January 13, 2017. He came to court willing to testify and was never called a witness.

9) I gave testimony at George Rider's trial regarding the cars, and his responsibility of taking our son to school each school day as my work schedule did not allow me to. I also stated I don't remember a day during that time frame that he did not fulfill that responsibility. I was not questioned about the cell phones during the trial. I would be willing to testify to the above facts as needed.

8/20/23
Date

Gloria J. Ray
Gloria J. Ray

EXHIBIT L

Notary Acknowledgement

Subscribed and sworn before me on this 20 day of AUG 2023

Linda E. Snedacar-Horne Notary Public

County Of WASHTENAW

LINDA E. SNEDACAR-HORNE
NOTARY PUBLIC, STATE OF MICHIG.
COUNTY OF WASHTENAW
My Commission Expires 04-29-2
Acting in the County of WASHTENAW

LINDA E. SNEDACAR-HORNE
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires 04-29-2029
Acting in the County of WASHTENAW

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March 10, 2026

George Gerald Rider, #155733
Thumb Correctional Facility
3225 John Conley Dr.
Lapeer, MI 48446

Re: Attorney Suzanna Kostovski, P 39535

Dear Mr. Rider:

I am writing in response to your correspondence, which was received by this office on March 5th, 2026, regarding the above referenced attorney. Please be advised that I have checked the records of the Attorney Discipline Board and found that Ms. Kostovski has been the subject of two (2) discipline matters. I have enclosed the notices of discipline issued by this office for those matters.

- *Grievance Administrator v Suzanna Kostovski,* 22-10-GA
  - Notice of 90-Day Suspension with Conditions
- *Grievance Administrator v Suzanna Kostovski,* 24-66-GA
  - Notice of 180-Day Suspension with Reprimand

There is also one (1) matter pending which has not been concluded at the time of sending of this response letter:

- *Grievance Administrator v Suzanna Kostovski*, 25-97-GA

Please feel free to contact this office should you need anything further. Thank you.

Very truly yours,

/s/ Chelsea Montgomery

enclosures

EXHIBIT M

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NOTICE OF SUSPENSION AND RESTITUTION

Case No. 24-66-GA

Notice Issued: April 3, 2025

Suzanna Kostovski, P 39535, Washington, Michigan

Suspension - 180 Days, Effective April 3, 2025[1]

After proceedings conducted pursuant to MCR 9.115, Tri-County Hearing Panel #21 found that respondent committed professional misconduct as alleged in the five-count formal complaint. Specifically, the panel found that respondent failed to exercise reasonable diligence and neglected four separate client matters; failed to adequately communicate with those clients and keep them reasonably informed; failed to surrender clients' files and failed to refund an unearned fee; and engaged in the practice of law while her license was suspended, and otherwise failed to comply with the requirements of her order of suspension.

The panel found that respondent handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b) [Count One]; neglected a legal matter entrusted to the lawyer, in violation of MRPC 1.1(c) [Counts One through Four]; failed to seek the lawful objectives of a client through reasonably available means permitted by law, in violation of MRPC 1.2(a) [Counts One through Four]; failed to act with reasonable diligence and promptness, in violation of MRPC 1.3 [Counts Two, Three, Four]; failed to keep a client reasonably informed about the status of a matter and comply with reasonable requests for information, in violation of MRPC 1.4(a) [Counts One through Four]; failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, in violation of MRPC 1.4(b) [Counts One through Four]; failed to communicate the basis or rate of her fee, in violation of MRPC 1.5(b) [Count Four]; upon termination of representation, failed to take reasonable steps to protect a client's interests, such as surrendering papers to which the client is entitled and refunding an unearned fee, in violation of MRPC 1.16(d) [Counts Two, Four]; engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b) [Count Five]; violated an order of discipline, in violation of MCR 9.104(9) [Count Five]; failed to provide the required notification to all active clients of her order of suspension, and in those cases in which she provided the notice, failed to timely provide the notice, in violation of MCR 9.119(A) [Count Five]; failed to provide the required notice to all tribunals and

[1]Respondent's license to practice law in Michigan has been continuously suspended since December 14, 2023. See Notice of Suspension With Conditions (By Consent), issued on December 18, 2023, in *Grievance Administrator v Suzanna Kostovski*, 22-10-GA.

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NOTICE OF SUSPENSION WITH CONDITIONS
(By Consent)

Case No. 22-10-GA

Notice Issued: December 18, 2023

Suzanna Kostovski, P 39535, Detroit, Michigan, by the Attorney Discipline Board Tri-County Hearing Panel #5

Suspension - 90 Days, Effective December 14, 2023

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Discipline, pursuant to MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained respondent's admissions to all of the factual allegations and respondent's plea of no contest to all of the allegations of professional misconduct set forth in the four-count formal complaint.

Specifically, the panel found in Count One that, while acting as appointed counsel in post-conviction proceedings, respondent communicated sporadically with her client and failed to file pleadings as instructed by the court. In Count Two, the panel found that, while acting as appointed appellate counsel, respondent had minimal communication with her client and, filed a delayed application for leave to appeal brief that was nonconforming in that it failed to contain citations to the trial court record as required.

The panel found in Count Three that, while acting as substitute appellate counsel, respondent failed to file a supplemental brief provided to her by her client in July 2019, until April 2020, at which time respondent had to also file a motion to file a late brief. The motion was denied by the Court of Appeals, in part because it did not provide any explanation for the delay, and did not cite any law. The panel found in Count Four that, while acting as appointed counsel in post-conviction proceedings, respondent failed to communicate with her client, failed to take any action on his behalf for fourteen months, and eventually had to be replaced by the State Appellate Defender's Office.

Based on respondent's admissions, plea of no contest, and the stipulation of the parties, the panel found that respondent handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b) (Counts Two and Three); neglected a legal matter entrusted to the lawyer, in violation of MRPC 1.1(c) (Counts One and Four); failed to seek the

AMENDED

INDEX TO EXHIBITS

EXHIBIT A - Affidavit of George Gerald Rider-Bey

EXHIBIT B - Affidavit of Amir A. Rider dated August 20, 2023

EXHIBIT C - Affidavit of Scott Lewis Mischnick dated November 30, 2023

EXHIBIT D - Jury Trial Transcripts, pp. 10-11, dated March 20, 2019

EXHIBIT E - Search Warrant & Affidavit dated January 27, 2017

EXHIBIT F - Jury Trial Transcripts, p. 210, dated March 26, 2019

EXHIBIT G - Evidentiary Hearing Transcripts dated November 21, 2018

EXHIBIT H - Motion Transcript dated March 6, 2019

EXHIBIT I - Affidavit of Lawrence Rider-El dated August 10, 2023

EXHIBIT J - District Court Transcript dated February 22, 2017

EXHIBIT K - Affidavit of Scott Lewis Mischnick dated November 30, 2023

EXHIBIT L - Affidavit of Gloria J. Ray dated August 20, 2023

EXHIBIT M- Letter of Attorney Suzanna Kastovski Suspension