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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-v-

Mich. Supreme Court No. 163968
Court of Appeals No. 358537
Trial Court No. FC 76-2701

EDWIN LAMAR LANGSTON,

Defendant-Appellant.

EXHIBITS

Exhibit A	Opinion and Order Denying Motion for Relief from Judgment (Mar 17,
Exhibit B	2021) COA Order Denying Leave (Dec 2, 2021)
Exhibit C	*People v Langston*, 412 Mich 903; 315 NW2d 408 (Jan 21, 1982)
Exhibit D	*People v Langston*, 413 Mich 911; 320 NW2d 53 (May 26, 1982)
Exhibit E	*People v Langston*, Delayed Leave Application (Aug 23, 1985)
Exhibit F	*People v Langston,* MCOA Per Curiam Affirmance (May 4, 1988)
Exhibit G	Order Returning Def's Mot for Relief from Judgment
Exhibit H	MSC Order for Supplemental Briefs (Jan 31, 2025)
Exhibit I	MSC Order (Mar 28, 2025)

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EXHIBIT A

OPINION AND ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT

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STATE OF MICHIGAN
IN THE THIRTY-SIXTH CIRCUIT COURT FOR THE COUNTY OF VAN BUREN

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff, v. EDWIN LAMAR LANGSTON, Defendant.	Case No. 76-2701-FC Hon. Kathleen M. Brickley

Susan Zuiderveen (P76985)
Van Buren County Prosecuting Attorney
212 E. Paw Paw Street
Paw Paw, Michigan 49079
(269) 657-8236

Kimberly Thomas (P66643)
Attorney for Defendant
Criminal-Civil Litigation Clinic
University of Michigan Law School
801 Monroe Street
Ann Arbor, Michigan 48109
(734) 647-4054

OPINION AND ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT

At a session of said Court held in the Village of Paw Paw, County of Van Buren, State of Michigan on: 3/17/21
PRESENT: Hon. Kathleen M. Brickley

INTRODUCTION

Since 1976, Defendant Edwin Langston has been serving a sentence of life without parole for a felony murder conviction. At his trial, the jury was not required to find as an element of the offense malice with respect to the homicide. But after his conviction and sentence, the Michigan Supreme Court ruled that felony murder convictions require proof of malice with respect to homicide. The court also ruled that its decision would only apply "to all trials in progress and those occurring after the date of this opinion." This left individuals like Mr. Langston, whose appeal was

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held in abeyance awaiting the Supreme Court's ruling, and who is now serving a mandatory life sentence after having been convicted without a showing of proper malice, without relief.

Defendant now files with this court a motion for relief from judgment. He raises various issues related to his conviction under these circumstances and to his sentence of life without parole under these circumstances. Because this court is constrained to follow established precedent, the court denies Mr. Langston's motion.

PROCEDURAL HISTORY

In 1976, a jury convicted Defendant Edwin Langston of felony murder for aiding and abetting an armed robbery resulting in a death. As required by MCL 750.316, the court sentenced Mr. Langston to life without the possibility of parole.

Mr. Langston appealed his conviction raising several issues, including the claim that the trial court erroneously instructed the jury on the *mens rea* required for felony murder. At trial, the court charged the jury that to convict, "the murder must have been found to be fairly within the scope of a criminal enterprise and it might have been expected to happen in the course of committing this robbery with a pistol." *People v Langston*, 86 Mich App 656, 660; 273 NW2d 99, 101 (1978) (internal quotations omitted). Mr. Langston argued that this instruction was insufficient to establish malice, which he maintained was an independent, necessary element of any murder, including felony murder. The Court of Appeals agreed, holding that felony murder convictions require proof of malice with respect to the homicide—i.e., the accused "must have acted with the intent to kill or in reckless disregard of a known and high degree of risk that death or serious bodily harm might occur." *Langston*, 86 Mich App at 660. The prosecution sought leave to appeal the Court of Appeals' judgment.

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The Michigan Supreme Court held the application in abeyance pending its decision in *People v Aaron*, 409 Mich 672; 299 NW2d 304 (1980). In *Aaron*, the Court held that malice is a necessary element of any murder, including felony murder. *Aaron*, 409 Mich at 773. "[I]n order to convict a defendant of murder, . . . it must be shown that he acted with intent to kill or to inflict great bodily harm or with a wanton and willful disregard of the likelihood that the natural tendency of his behavior is to cause death or great bodily harm. . . . [T]he issue of malice must always be submitted to the jury." *Id.* Critical to this case, the *Aaron* Court stated its decision would only apply "to all trials in progress and those occurring after the date of this opinion." *Id.* Because Mr. Langston was convicted before the *Aaron* opinion was decided, the Supreme Court reinstated his conviction pursuant to the language in *Aaron* limiting its retroactive effect. *People v Langston*, 413 Mich 911; 320 NW2d 53 (1982).

In 1985, well after the conviction was reinstated, Mr. Langston pursued a delayed appeal of issues the Court of Appeals had not addressed in its previous opinion. In 1988, the Court of Appeals affirmed Mr. Langston's conviction in an unpublished opinion. The Supreme Court declined leave to review.

Mr. Langston indicates that in 1992 he moved for relief from judgment and that the motion was denied. In 2003, Mr. Langston filed a second motion for relief from judgment, which was returned without filing and, per this court's order, without prejudice to Mr. Langston's ability to file another motion in the future.[1] In Mr. Langston's current motion for relief from judgment, he

[1] In most cases, successive motions for relief from judgment are barred by MCR 6.502(G)(1). However, for the purposes of determining whether a motion is successive, the Court must ignore motions filed before August 1, 1995. *People v O'Neal*, 504 Mich 1014; 940 NW2d 116 (2020). Because the 1992 motion predates the effective date of the successive motion rule and the 2003 motion was returned without filing, Mr. Langston's current motion is not barred by MCR 6.502(G)(1).

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argues (1) the prospective-only statement in *Aaron* was contrary to law, an improper application of constitutional avoidance, and unconstitutional on due-process grounds, and (2) mandatory life without parole is cruel and/or unusual punishment for felony murder convictions obtained without a finding of malice, and (3) the failure to present these arguments previously was ineffective assistance of counsel.

BASIS FOR REVIEW

Subchapter 6.500 of the Michigan Court Rules establishes the procedures for pursuing relief from a criminal conviction. It is the exclusive means to challenge a conviction in a Michigan court once a defendant has exhausted the normal appellate process or when the conviction and sentence are not subject to state court appellate review. MCR 6.501. Ordinarily, a court may not grant relief from judgment if a defendant's motion "alleges grounds for relief, other than jurisdictional defects, which could have been raised on appeal from the conviction and sentence or in a prior motion under this subchapter." MCR 6.508(D)(3); *People v McSwain*, 259 Mich App 654, 679–80; 676 NW2d 236 (2003). However, relief may be granted for claims that could have been raised on appeal or in a prior motion if a defendant demonstrates both good cause for failure to have raised the grounds before as well as actual prejudice from the alleged irregularities that support the claim for relief. MCR 6.508(D)(3); *People v Watroba*, 193 Mich App 124, 126; 483 NW2d 441 (1992). "Good cause" under MCR 6.508(D)(3) can be "established by proving ineffective assistance of appellate counsel . . . or by showing that some external factor prevented counsel from previously raising the issue." *People v Reed*, 449 Mich 375, 378; 535 NW2d 496 (1995).

As applicable in this case, "actual prejudice" means (a) "but for the alleged error, the defendant would have had a reasonably likely chance of acquittal" or (b) "the irregularity was so offensive to the maintenance of a sound judicial process that the conviction should not be allowed

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to stand regardless of its effect on the outcome of the case" or (c) "the sentence is invalid." MCR 6.508(D)(3)(b)(i), (iii), (iv).[2] A defendant fails to establish actual prejudice if the arguments presented in a motion for relief from judgment are without merit. See *People v Clark*, 274 Mich App 248, 255; 732 NW2d 605 (2007). A court may not grant relief on grounds which were decided against a defendant in a prior appeal or proceeding under this subchapter. MCR 6.508(D)(2).[3] A defendant bears the burden of establishing his or her entitlement to relief. MCR 6.508(D). Postconviction relief is reserved only for the "extraordinary case in which a conviction constitutes a miscarriage of justice." *Reed*, 449 Mich at 381.

In this case, the prosecution does not address the substance of Mr. Langston's arguments. Rather, the prosecution argues Mr. Langston's motion is procedurally barred because the grounds for relief raised in the motion were decided against Mr. Langston in his first appeal. MCR 6.508(D)(2). In the prosecution's view, all of the arguments Mr. Langston raises "center around the lack of *mens rea* in the jury instructions at trial," and this issue was decided on direct appeal when the Supreme Court reinstated Mr. Langston's conviction. *Langston*, 413 Mich at 911.

This argument paints with too broad a brush. The particular grounds for relief raised in Mr. Langston's motion have not been decided before. No court has considered whether the Supreme Court's application of *Aaron* to this case was improper or whether Mr. Langston's sentence is cruel and/or unusual. Simply put, the arguments presented in this motion were not

---

[2] A sentence is invalid when it is beyond statutory limits, when it is based upon inaccurate information, constitutionally impermissible grounds, improper assumptions of guilt, or a misconception of law, or when it conforms to local sentencing policy rather than individualized facts. *People v Miles*, 454 Mich 90, 96; 559 NW2d 299 (1997).

[3] However, a court is not precluded from considering previously-decided claims "in the context of a new claim for relief" or when previously-decided claims create a significant possibility of actual innocence when considered together with a new claim for relief. MCR 6.508(D)(2).

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decided against Mr. Langston in a previous appeal.[4] Mr. Langston did in fact file a motion for relief from judgment in 1992, that filing and the order denying it have since been lost. The court will assume that the issues presented in the current motion for relief from judgment have not been decided against Mr. Langston in any prior motion for relief from judgment. Therefore, Mr. Langston's motion is not procedurally barred by MCR 6.508(D)(2).

However, the issues raised in Mr. Langston's motion could have been raised in his post-*Aaron* appeal filed in the 1980s. He could have at that juncture raised the claim that the Supreme Court in *Aaron* erred on the issue of non-retroactivity or that the Supreme Court in *Langston* wrongly relied on *Aaron*'s non-retroactivity holding when reinstating Mr. Langston's conviction. But the record indicates Mr. Langston did not raise that claim in his post-*Aaron* appeal before the Court of Appeals. As well, Mr. Langston concedes he could have raised his claim about cruel and/or unusual punishment previously but did not do so.

Because he could have raised the issues presented in this motion previously but did not do so, Mr. Langston must demonstrate good cause and actual prejudice in order to sidestep the

[4] In reaching this conclusion, the court relies in part on unpublished case law suggesting that "grounds" refers to the "exact issue" raised in a previous proceeding. *People v Boswell*, unpublished per curiam opinion of the Court of Appeals, issued November 16, 2001 (Docket No. 228359), p 1; 2001 WL 1464533. In *People v Boswell*, the Court of Appeals noted the defendant was not precluded from raising an ineffective assistance claim in a motion for relief from judgment even though the defendant had previously raised a different ineffective assistance claim on appeal. *Id.* In another case, a defendant on appeal challenged the admission of her inculpatory statements on the grounds that they were involuntary. In her motion for relief from judgment, she argued that the statements were the fruit of an illegal arrest. Again, these were distinct grounds for relief. *People v Bunton*, unpublished opinion of the Court of Appeals, issued July 1, 2003 (Docket No. 236335), p 2; 2003 WL 21508500. While these authorities are not binding precedent, the court finds their analysis persuasive. To say in this case that Mr. Langston's arguments are barred because the "*mens rea* issue" was decided in a previous appeal overgeneralizes in a manner that is inconsistent with the meaning of the word "grounds" as it is used in MCR 6.508(D)(2).

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MCR 6.508(D)(3) bar to relief.[5] Mr. Langston puts forth various good cause arguments. They appear to be tethered to the assertion that appellate counsel was ineffective or to the notion that even the best of counsel could not have raised some of these issues because they became viable only as a result of subsequent case law. In this regard, the defense points to several cases, post his appeal, which tend to narrow the opportunity for mandatory life without parole sentences. As to actual prejudice, Mr. Langston argues several alternatives under MCR 6.508(D)(3)(b) including, as it relates to his cruel and/or unusual claim, the alternative that his sentence is invalid. As discussed in more detail below, appellate counsel was not ineffective for failure to raise these claims because, in light of controlling precedent, they would have been futile. The court also concludes that Mr. Langston cannot demonstrate actual prejudice because the possibility of relief based on the arguments presented is foreclosed by established precedent. See *Clark*, 274 Mich App at 255. Even if the motion is not procedurally barred by MCR 6.508(D)(3) the court concludes it must deny the motion on the merits because this court is bound by prior decisions of the Supreme Court.

APPLICATION OF THE *AARON* DECISION

Mr. Langston's first argument is that, when a court of last resort interprets a statute, the judicial interpretation is a declaration of what the statute means and has always meant. Essentially, this is an argument that the Supreme Court erred when it held that the *Aaron* decision would only apply "to all trials in progress and those occurring after the date of this opinion," *Aaron*, 409 Mich at 773. This of course reinstated Mr. Langston's conviction.

[5] Despite Mr. Langston's legal innocence arguments, this court does not waive the "good cause" requirement of subrule (D)(3)(a).

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Lower courts are bound by the *Aaron* Court's holding that its opinion has no retroactive effect. See *People v Till*, 115 Mich App 788, 797–98; 323 NW2d 14, 18 (1982) ("The decision in *Aaron* stated that the case was not to be given retroactive effect[.] … *Aaron*, therefore, does not apply to the case at bar"); see also *Paige v City of Sterling Heights*, 476 Mich 495, 524; 720 NW2d 219, 235 (2006) ("only [the Supreme] Court has the authority to overrule one of its prior decisions[, and until it does so] all lower courts and tribunals are bound by that prior decision and must follow it even if they believe that it was wrongly decided or has become obsolete"). This is true even if the *Aaron* opinion violates a defendant's constitutional rights. See *People v Kolar*, unpublished opinion of the Court of Appeals, issued May 4, 1999 (Docket No. 206800), p 1 (lower courts are bound to follow the decisions of the Michigan Supreme Court even when they are alleged to have unconstitutional effects). The current Supreme Court may wish to revisit the issue of *Aaron*'s retroactivity, but until it does so this court is bound to follow the *Aaron* Court's statement regarding *Aaron*'s non-retroactivity.

Next, Mr. Langston argues that the *Aaron* court wrongly read a homicide malice requirement into the felony murder statute to avoid addressing the constitutional question of whether malice-less felony murder runs afoul of the Due Process Clause. It is not clear that this is what the *Aaron* court in fact did. More plausibly, the Court viewed itself as modifying the common-law definition of "murder" in Michigan. See *Aaron*, 409 Mich 723 n 112. The Court wrote that it was "exercis[ing] [its] role in the development of the common law," *Aaron*, 409 Mich at 733, by "abolishing the [common-law] rule which *defines malice as the intent to commit the underlying felony*," *Aaron*, 409 Mich at 727 (emphasis added). If the *Aaron* Court had been concerned that the common-law rule it abolished violated defendants' due process rights, one would expect the Court would have said so. Instead, the words "due process" appear only once across three opinions, in a

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footnote to the partial concurrence of Justice RYAN, who observed that a statutory presumption that a "true element" of a crime exists "may run afoul of the Fourteenth Amendment Due Process Clause." *Aaron*, 409 Mich at 742 n 15 (RYAN, J., concurring in part, dissenting in part). Justice RYAN expressed doubt that malice was best understood as a "true element" of felony murder that can be established by a presumption, instead suggesting that "the element [i.e., malice] is not part of the crime [of felony murder]." *Id.* For that reason, Justice RYAN apparently did not believe that the felony murder doctrine raised due-process concerns. No justice recorded their disagreement with that latter proposition, and there is no indication the *Aaron* Court believed it was engaged in constitutional avoidance. The court therefore concludes that Mr. Langston's argument about constitutional avoidance lacks merit. But even if the court were to reach the opposite conclusion, *Aaron* would still be binding precedent. *Paige*, 476 Mich at 524.

Mr. Langston also argues that the felony murder rule is unconstitutional because the rule allowed him to be convicted of murder without proof of malice. As Mr. Langston notes, "the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *In re Winship*, 397 US 358, 364; 90 S Ct 1068; 25 L Ed 2d 368 (1970). But according to the majority opinion in *Aaron*, the common-law definition of "murder" in effect at the time Mr. Langston was convicted defined "the intent to commit [an] underlying felony" as a form of malice sufficient to justify a murder conviction. *Aaron*, 409 Mich at 727. This is not a case in which proof of malice was not required, nor was it a case in which malice was presumed. The jury concluded Mr. Langston had intent to commit armed robbery under an aiding and abetting theory. Under the law in effect at the time of the conviction, that conclusion established the malice element of murder. While the *Aaron* court recognized that this definition of "malice" was archaic, it declined to modify convictions that had

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already been obtained under the old rule. As noted, *Aaron* is binding precedent. *Paige*, 476 Mich at 524.

CRUEL AND/OR UNUSUAL PUNISHMENT

Mr. Langston argues that his life without parole sentence for felony murder constitutes cruel and unusual punishment under the Eighth Amendment and cruel or unusual punishment under the Michigan Constitution. In *People v Hall*, 396 Mich 650; 242 NW2d 377 (1976), the Michigan Supreme Court held that mandatory life without the possibility of parole for adult offenders found guilty of felony murder is neither cruel and unusual punishment under the Eighth Amendment nor cruel or unusual punishment under the Michigan Constitution. *People v Hall*, 396 Mich 650, 657–58; 242 NW2d 377 (1976). Lower courts are bound to follow that analysis. *People v Harris*, unpublished per curiam opinion of the Court of Appeals, issued August 13, 2020 (Docket No. 346586), p 10; 2020 WL 4723286.[6]

INEFFECTIVE ASSISTANCE OF COUNSEL

Mr. Langston argues that his appellate counsel was ineffective for failing to raise the arguments discussed above. Because none of the arguments have merit under current law, appellate counsel's failure to raise them was not ineffective assistance of counsel. *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010). Because Mr. Langston has failed to show that he received ineffective assistance of appellate counsel, he is not entitled to relief on this ground.

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[6] The court recognizes that in the nearly fifty years since *Hall* was decided, jurisprudence has evolved in Michigan and outside of Michigan. Whether it be, for example, drug offenses or those involving juveniles, our Supreme Court repeatedly recognizes the need to eliminate mandatory life without parole sentences in various scenarios as violative of the Eighth Amendment or Const 1963, art 1, s 16. The defense notes that only twelve states impose a mandatory sentence of life in prison without the possibility of parole for any felony murder. As a person convicted of felony murder without an appropriate homicide malice instruction, Mr. Langston's case seems ripe for review in this regard. Nevertheless, the court is bound to follow *Hall* until the Supreme Court provides otherwise. *Harris*, unpub op at 10.

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CONCLUSION

After examining Mr. Langston's motion together with all available files, records, transcripts, and correspondence relating to the judgment, and after considering the response by the prosecutor and Mr. Langston's reply, the court concludes that an evidentiary hearing is not required and that Mr. Langston is not entitled to relief on the grounds presented.

Therefore, Mr. Langston's Motion for Relief from Judgment is DENIED.

IT IS SO ORDERED.

Dated: 3/17/21

Hon. Kathleen M. Brickley

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PROOF OF MAILING

I certify that on this date I sent a copy of this OPINION AND ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT to the parties in interest at their above-stated addresses via ordinary mail.

Dated: 3/17/21

Melissa Williams, Judicial Assistant

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EXHIBIT B

COA ORDER DENYING LEAVE

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Court of Appeals, State of Michigan

ORDER

People of MI v Edwin Lamar Langston

Docket No. 358537

LC No. 76-002701-FC

James Robert Redford
Presiding Judge

Jane E. Markey

Jane M. Beckering
Judges

The delayed application for leave to appeal is DENIED because defendant has failed to establish that the trial court erred in denying the motion for relief from judgment.

Presiding Judge

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

December 2, 2021
Date

Chief Clerk

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EXHIBIT C

PEOPLE V. LANGSTON 412 MICH 903; 315 NW2D 408

412 Mich. 903

PEOPLE of the State of Michigan, Plaintiff-Appellant,

v.

Edwin Lamar LANGSTON, Defendant-Appellee.

No. 62340.

Supreme Court of Michigan.

Jan. 21, 1982.

ORDER

On order of the Court, plaintiff-appellant's application for leave to appeal having been ordered held in abeyance pending decision in *People v. Thompson* (Docket No. 61140), *People v. Wright* (Docket No. 61194), and *People v. Wilder* (Docket No. 61305), and said decisions having been issued in *People v. Aaron, People v. Thompson, People v. Wright*, 409 Mich. 672, 299 N.W.2d 304 (1980), and *People v. Wilder*, 411 Mich. 328, 308 N.W.2d 112 (1981),

Now, therefore, the application by plaintiff-appellant for leave to appeal, 86 Mich. App. 656, 273 N.W.2d 99, is considered, and it is DENIED, because the Court is not persuaded that the question presented should be reviewed by this Court.

Justice Levin would grant leave to appeal to consider the retroactivity of *People v. Aaron*, 409 Mich. 672, 299 N.W.2d 304 (1980), for the reasons set forth in his dissenting statement in *People v. Lonchar*, 411 Mich. 923, 308 N.W.2d 103 (1981).

KAVANAGH, J., concurs with LEVIN, J.

RYAN, J., dissents as follows:

For the reasons stated by Justice Levin in Parts I, III, and V of his statement of dissent in *People v. Lonchar*, 411 Mich. 923, 308 N.W.2d 103 (1981), I would grant leave to appeal, limited to consideration of the question of the retroactivity of the rule announced in *People v. Aaron*, 409 Mich. 672, 299 N.W.2d 304 (1980).

412 Mich. 907

PEOPLE of the State of Michigan, Plaintiff-Appellee,

v.

Samuel TILL, Defendant-Appellant.

No. 63311.

Supreme Court of Michigan.

Jan. 21, 1982.

ORDER

On order of the Court, the motion by defendant-appellant for reconsideration of this Court's order of June 19, 1981, 411 Mich. 982, 308 N.W.2d 110, is considered and the motion is DENIED, because it does not appear that said order was entered erroneously.

Justice Levin would grant reconsideration and leave to appeal to consider the retroactivity of *People v. Aaron*, 409 Mich. 672, 299 N.W.2d 304 (1980), for the reasons set forth in his dissenting statement in *People v. Lonchar*, 411 Mich. 923, 308 N.W.2d 103 (1981).

KAVANAGH, J., concurs with LEVIN, J.

RYAN, Justice, dissents as follows:

For the reasons stated by Justice Levin in Parts I, III, and V of his statement of dissent in *People v. Lonchar*, 411 Mich. 923, 308 N.W.2d 103 (1981), I would grant the motion for reconsideration in this case and upon reconsideration vote to grant leave to appeal, limited to consideration of the question of the retroactivity of the rule announced in *People v. Aaron*, 409 Mich. 672, 299 N.W.2d 304 (1980).



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EXHIBIT D

PEOPLE V. LANGSTON 413 MICH 911; 320 NW2D 53

413 Mich. 911

PEOPLE of the State of Michigan, Plaintiff-Appellant,

v.

Edwin Lamar LANGSTON, Defendant-Appellee.

No. 62340.

Supreme Court of Michigan.

May 26, 1982.

ORDER

On order of the Court, the delayed motion for reconsideration is considered, and it is GRANTED. On reconsideration, it is noted that this Court's order of January 21, 1982, 412 Mich. 903, 315 N.W.2d 408, in which leave to appeal was denied was entered as a result of clerical error. In this prosecutor's appeal which had been held in abeyance for *People v. Aaron, People v. Thompson, People v. Wright*, 409 Mich. 672, 299 N.W.2d 304 (1980), and *People v. Wilder*, 411 Mich. 328, 308 N.W.2d 112 (1981), an order should have entered reinstating the defendant's conviction of first-degree murder. See *People v. Wilson*, 411 Mich. 990, 308 N.W.2d 97 (1981), and *People v. Dietrich*, 412 Mich. 904, 315 N.W.2d 123 (1982). Accordingly, upon reconsideration, we correct our order of January 21, 1982, in the following respect:

The application by plaintiff-appellant for leave to appeal is considered and, pursuant to GCR 1963, 853.2(4), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals, 86 Mich.App. 656, 273 N.W.2d 99, and REINSTATE defendant's conviction of first-degree murder. *People v. Aaron*, 409 Mich. 672, 734, 299 N.W.2d 304 (1980).

Justice Levin would grant leave to appeal to consider the retroactivity of *People v. Aaron*, 409 Mich. 672, 299 N.W.2d 304 (1980), for the reasons set forth in his dissenting statement in *People v. Lonchar*, 411 Mich. 923, 308 N.W.2d 103 (1981).

KAVANAGH, J., concurs with LEVIN, J.

RYAN, Justice, dissents as follows:

For the reasons stated by Justice Levin in Parts I, III, and V of his statement of dissent in *People v. Lonchar*, 411 Mich. 923, 308 N.W.2d 103 (1981), I would grant leave to appeal, limited to consideration of the question of the retroactivity of the rule announced in *People v. Aaron*, 409 Mich. 672, 299 N.W.2d 304 (1980).



CITY OF BLOOMFIELD HILLS, a Michigan Municipal Corporation, Plaintiff-Appellee,

and

Fernando N. Salazar, M.D., Intervening Plaintiff-Appellee,

v.

Norman ZIEGELMAN and Monica Ziegelman, his wife, Defendants-Appellants.

Docket No. 68571.

Supreme Court of Michigan.

June 3, 1982.

Reconsideration Denied June 3, 1982.

Homeowner appealed from judgment of contempt of the Circuit Court, Oakland County, George H. LaPlata, J., arising out of homeowner's construction of a tennis court allegedly of a type and in a location prohibited by zoning ordinance. The Court of Appeals, Borradaile, J., sitting by assignment, 110 Mich.App. 530, 313 N.W.2d 137, affirmed. Application for leave to appeal was considered and, in lieu of granting leave to appeal, the Supreme Court held that zoning ordinance's definition of "building" did not include a tennis court.

Reversed; motion to preserve status quo denied.

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EXHIBIT E

PEOPLE V LANGSTON

DELAYED LEAVE APPLICAITON

STATE OF MICHIGAN

IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-vs-

EDWIN LAMAR LANGSTON,

Defendant-Appellant.

Court of Appeals No.
Lower Court No. 2701

VAN BUREN COUNTY PROSECUTOR'S OFFICE/PAAS
Attorney for Plaintiff-Appellee

STATE APPELLATE DEFENDER OFFICE
Attorney for Defendant-Appellant

DELAYED APPLICATION FOR LEAVE TO APPEAL

NOTICE OF HEARING

BRIEF IN SUPPORT OF DELAYED APPLICATION

FOR LEAVE TO APPEAL

PROOF OF SERVICE

STATE APPELLATE DEFENDER OFFICE

BY: F. MICHAEL SCHUCK (P 20079)
Assistant Defender
Third Floor, North Tower
1200 Sixth Avenue
Detroit, MI 48226
(313) 256-2814

CHARI GROVE (P 25812)
Assistant Defender

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-vs-

EDWIN LAMAR LANGSTON,

Defendant-Appellant.
_____/

Court of Appeals No.
Lower Court No. 2701

DELAYED APPLICATION FOR LEAVE TO APPEAL

NOW COMES the above Defendant-Appellant EDWIN LAMAR LANGSTON, through his attorneys the State Appellate Defender Office by F. Michael Schuck and requests that this Honorable Court grant his Delayed Application for Leave to Appeal for the following reasons:

1. Defendant was sentenced to life imprisonment by the Circuit Court for the County of Van Buren on September 8, 1976, for the conviction of the crime of first-degree, felony-murder. MCLA 750.316; MSA 28.548.

2. Defendant filed a brief on appeal in the Michigan Court of Appeals and that Court issued an opinion on November 6, 1978, reversing his conviction and granting a new trial.

3. The People applied for leave to appeal and the application was held in abeyance pending the decision in People v Aaron, Thompson, and Wright, 409 Mich 672; 299 NW2d 304 (1980).

4. By Order dated January 21, 1982, the People's application for leave to appeal was denied, with Kavanaugh Levin, and Ryan JJ dissenting.

5. The People filed a delayed motion for reconsideration, Defendant filed an answer in opposition, and the Michigan Supreme Court granted the People's delayed motion on May 26, 1982, correcting the "clerical error" in the previous order and reinstating Defendant's conviction of first degree murder, with three dissents.

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6. Defendant filed a petition for writ of habeas corpus in the United States District Court for the Eastern District of Michigan on August 8, 1984, and that Court issued an opinion denying the petition.

7. The Federal District Court held that Defendant's remedies were not exhausted because this Court did not rule on the issues raised in the appeal, other than the one issue which caused this Court to reverse Defendant's conviction. The Federal District Court indicated in its opinion that "the Michigan Court of Appeals will consider delayed applications for leave to appeal without limitation as to whether there was a previous appeal by right."

8. Defendant requests that this Court consider those issues which were raised but not decided by this Court in order that Defendant may exhaust his state court remedies.

WHEREFORE, Defendant-Appellant respectfully requests that this Honorable Court grant his Delayed Application for Leave to Appeal.

Respectfully submitted,

STATE APPELLATE DEFENDER OFFICE

By: _____

F. MICHAEL SCHUCK (P 20079)
Assistant Defender
For CHARI GROVE (P 25812)
Assistant Defender
Third Floor, North Tower
1200 Sixth Street
Detroit, Michigan 48226
(313) 256-2814

Dated: August 23, 1985

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-vs-

Court of Appeals No.
Lower Court No. 2701

EDWIN LAMAR LANGSTON,

Defendant-Appellant.
_____/

NOTICE OF HEARING

PROSECUTING ATTORNEYS APPELLATE SERVICE
3RD FLOOR - PLAZA ONE BUILDING
401 S. WASHINGTON AVENUE
LANSING, MICHIGAN 48913

PLEASE TAKE NOTICE that on September 17, 1985, the undersigned will move this Honorable Court to grant the within Delayed Application for Leave to Appeal in the above entitled cause.

STATE APPELLATE DEFENDER OFFICE

By: _____
F. MICHAEL SCHUCK (P 20079)
Assistant Defender
Third Floor, North Tower
1200 Sixth Street
Detroit, Michigan 48226
(313) 256-2814

Dated: August 23, 1985

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-vs-

Court of Appeals No.
Lower Court No. 2701

EDWIN LAMAR LANGSTON,

Defendant-Appellant.
_____/

VAN BUREN COUNTY PROSECUTOR'S OFFICE/PAAS
Attorney for Plaintiff-Appellee

_____

STATE APPELLATE DEFENDER OFFICE
Attorney for Defendant-Appellant.

_____

BRIEF IN SUPPORT OF

DELAYED APPLICATION FOR LEAVE TO APPEAL

STATE APPELLATE DEFENDER OFFICE

BY: F. MICHAEL SCHUCK (P 20079)
Assistant Defender
Third Floor, North Tower
1200 Sixth Avenue
Detroit, MI 48226
(313) 256-2814

CHARI GROVE (P 25812)
Assistant Defender

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LANGSTON, Edwin L

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EXHIBIT F

MCOA PER CURIAM AFFIRMANCE

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5 1988

STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

No. 95650

EDWIN LAMAR LANGSTON, a/k/a Y. R. STRANGER,

Defendant-Appellant.

MAY 04 1988

BEFORE: J. B. Sullivan, P.J., H. Hood and M. E. Clements,* JJ.

PER CURIAM

Defendant was convicted by a jury in the Van Buren Circuit Court of first-degree felony-murder, MCL 750.316; MSA 28.548, in August 1976. Defendant was sentenced to mandatory life imprisonment. This appeal is before this Court by order of the Michigan Supreme Court, People v Langston, 426 Mich 862; 393 NW2d 873 (1986).

Defendant originally appealed his conviction and sentence as of right claiming several errors. This Court reversed his conviction and remanded for a new trial solely on the issue of the jury instruction on the requisite mens rea. See People v Langston, 86 Mich App 656; 273 NW2d 99 (1978). This Court, having found reversible error on this issue, did not address defendant's other claims of error.

The prosecution's application for leave to appeal to the Supreme Court was ordered held in abeyance pending the Court's decision in several cases addressing the mens rea necessary to support a conviction under Michigan's first-degree murder statute. Following its decision in People v Aaron, 409 Mich 672; 299 NW2d 304 (1980), the Supreme Court, in lieu of granting leave to appeal, reversed this Court and reinstated the defendant's conviction. See 412 Mich 903; 320 NW2d 53 (1982).

In August 1985 defendant filed a delayed application for leave to appeal to this Court which was denied in December,

* Circuit judge, sitting on the Court of Appeals by assignment.

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1985. Defendant appealed that order to the Supreme Court which issued an order remanding to this Court as on leave granted.

Defendant now raises three issues on appeal which are all related to jury selection and deliberation. Briefly, as reported below by this Court, defendant's conviction arises out of an armed robbery of a store in which a woman was shot and killed by Ronald Wilson. At trial, the prosecution claimed defendant had intentionally aided Ronald Wilson in the perpetration of the robbery and therefore as an accomplice to the underlying felony he was liable as a principal for the murder.

Defendant first claims that he did not receive a fair trial because the trial court improperly excused two jurors who admitted that they might not be able to follow all of the court's instructions on the law.

At the time of defendant's trial, GCR 1963, 511.4(4) and (5) provided that a prospective juror could be challenged for cause where she showed a state of mind which would prevent her from rendering a just verdict or where she held opinions or conscientious scruples which would improperly influence her verdict. See MCR 2.511(D). The trial court is required to excuse a juror whenever a challenge for cause falls within one of these categories. McNabb v Green Real Estate Co, 62 Mich App 500, 506-507; 233 NW2d 811 (1975), People v Walker, 162 Mich App 60, 64; 412 NW2d 244 (1987). The trial court's decision will be reversed only if this Court finds a clear abuse of discretion. People v Hughes, 85 Mich App 8, 18; 270 NW2d 692 (1978).

Both jurors were challenged for cause by the prosecutor under subparagraph (4), with the court noting the possible applicability of subparagraph (5). The first juror was specifically asked by the trial court whether she would promise to apply the law as he instructed her. She said she would not so promise. The second juror similarly was excused after she told the court that if she felt part of the law was wrong, she would not be able to apply the law as charged.

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It is the duty of the trial court to instruct the jury as to the applicable law. MCL 768.29; MSA 28.1052. It is proper for the court to present the applicable law to the jurors and then to ask if they can conform to its dictates. People v Brown, 46 Mich App 592; 208 NW2d 590 (1973). It is clearly improper to convey to the jury that they have the power to disregard the law. People v Craig, 66 Mich App 406; 239 NW2d 390 (1976). Our review of the record indicates this is not the situation argued by the defendant where the court was intimidating the jury or directing the verdict. People v Deneweth, 14 Mich App 604; 165 NW2d 910 (1968). The trial court did not abuse its discretion in excusing the two jurors.

Defendant next contends the trial court abused its discretion in limiting voir dire of prospective jurors on the issue of racial prejudice. The scope of voir dire examination is within the discretion of the trial court and its decision will not be set aside absent an abuse of that discretion. People v Harrell, 398 Mich 384; 247 NW2d 829 (1976). As noted in Harrell, the purpose of questions concerning racial prejudice is to focus the attention of the prospective jurors on any racial prejudice they might entertain. Id., p 389, quoting Ham v South Carolina, 409 US 524; 93 S Ct 848; 35 L Ed 2d 46 (1973). The issue is the bias of a particular juror not the sentiment of the community. Id., p 398 (Levin, J., dissent) (quoting Aldridge v United States, 283 US 308; 51 S Ct 470; 75 L Ed 2d 1054 (1931)).

In this case, jury selection encompassed four days and is reflected in almost one thousand pages of trial transcript. The record indicates that all potential jurors were present in the courtroom throughout the proceedings. At the beginning of voir dire, the trial court asked that all members of the panel listen to his instructions and questions. Likewise, the prosecutor and defense counsel asked that the entire panel listen closely to the questions they and the judge would be asking.

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Both the court and the attorneys questioned the prospective jurors. The questions included ones indirectly relating to racial attitudes, as well as questions directly inquiring into possible prejudice because of defendant's race. Beginning on the third day of voir dire, questions became less directed at individual bias and more concerned with community issues. On the fourth day of jury selection, the trial court limited both counsel's voir dire on the issue of race, indicating that the questions had gotten to the point where the issue of racism was being brought into the trial. In responses to defendant's motion for mistrial on this issue, the court indicated that the questions had reached a point where they were editorializing and arguing with the jury and had become nonproductive.

Following the court's admonition, the court continued to voir dire each juror on his or her individual sympathies and prejudices. One juror who had already been voir dired volunteered her possible prejudice against the defendant and a second juror when later voir dired volunteered his possible prejudice. Both jurors were excused for cause.

While there appears to have been some confusion as to whether the court was limiting all questions or only those which the court had found to be unproductive, our review of the entire voir dire indicates that the defendant's interest in a jury free of prejudice was adequately preserved.

Defendant's third issue is that the trial court abused its discretion in denying defendant's motion for new trial based on a juror's affidavit that the jury deliberations had been tainted by racial bias and by references to newspaper articles. The motion was denied following a hearing at which the affiant was present but did not testify. A second affidavit was subsequently filed by the same juror with a motion for rehearing. This motion was also denied.

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In general, in both civil and criminal cases, jurors may not challenge mistakes or misconduct inherent in their verdict by oral testimony or by affidavit. Hoffman v Monroe Public Schools, 96 Mich App 256; 292 NW2d 542 (1980). Evidence as to the personal consciousness of a juror or as to personal motives and influences which might have affected the deliberations is not considered. People v Moreland, 12 Mich App 483; 163 NW2d 257 (1968). An affidavit that is generalized, ambiguous and vague is not sufficient. People v VanCamp, 356 Mich 593, 601-602; 97 NW2d 726 (1959); Moreland, supra.

Our review of both affidavits indicates they do not allege or show how any juror was actually influenced by the events set forth. The statements concern events inherent in the verdict, that is, within the consciousness of individual jurors. We cannot say that the affidavits indicate that defendant was judged by a biased jury or that the trial court erred in denying the motions for a new trial.

Affirmed.

/s/ Joseph B. Sullivan
/s/ Harold Hood
/s/ Martin E. Clements

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EXHIBIT G

ORDER RETURNING DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF VAN BUREN
36TH JUDICIAL CIRCUIT

People of the State of Michigan.
Plaintiff,
-vs-

Circuit No. 76-2701
Hon. William C. Buhl, Circuit Judge

Edwin Lamar Langston.
Defendant,

ORDER RETURNING MOTION FOR RELIEF FROM JUDGMENT TO EDWIN LAMAR LANGSTON

Facts

On August 18, 1976, Edwin Lamar Langston was found guilty by a jury in Van Buren County Circuit Court of first degree felony murder. On September 8, 1976, the Court sentenced Langston to life in prison without the possibility of parole. Langston currently is imprisoned in the Muskegon Correctional Facility.

After the Court imposed the sentence on Langston, he pursued various forms of post conviction relief. He was ultimately unsuccessful in these attempts and remains incarcerated for life without the possibility of parole.

On or about September 11, 2003 Langston submitted several documents to this Court. When filing this motion for relief for judgment, Defendant submitted a stack of papers to the court consisting of well over 100 pages. The stack consisted of: 1) A Motion for an Evidentiary Hearing; 2) An Order Scheduling Post Conviction Proceedings; 3) A Motion for Appointment of Counsel; 4) A Motion for Suspension of Fees and Costs; 5) A Motion to File Brief Exceeding 20 Pages; 6) A Motion for Relief from Judgment and 7) a Brief in Support of the Motion for Relief from Judgment. Langston prayed the court grant relief from the Judgment imposed upon him.

Opinion

Michigan Court Rule 6.502 is entitled "Motion for Relief from Judgment." When a motion for relief from judgment is made, it can be returned when it does not substantially comply with the Court Rule. According to MCR 6.50 (D), these motions can be returned where the requirements of MCR 6.502 are not met. Defendant submitted a motion for relief from judgment that fails to substantially comply with the requirements of MCR 6.502.

MCR 6.502 (C) describes the form a motion of relief from judgment must take in order to be accepted by a court. Essentially MCR 6.502 (C) requires: 1) the name of the defendant, 2) the name of the court in which the defendant was convicted and the file number of the defendant's case, 3) the place where the defendant is confined, 4) the offenses for which the defendant was convicted and sentenced, 5) the date on which the defendant was convicted, 6) whether the defendant was convicted by a jury, 7) what the sentence imposed was, 8) the name of the trial and sentencing judges, 9) the court, title

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and file number of any proceedings, 10) the name of each lawyer who represented the defendant and 11) if the defendant requests the appointment of counsel.

Defendant included each of these basic required elements in the motion for relief from judgment submitted. However, MCR 6.502 (C) also requires inclusion of: 1) the relief requested, 2) the grounds for relief requested, 3) the facts supporting each ground stated in summary form, and 4) whether any of the grounds were raised before and if so, at which stage of the case and, if not, the reasons they were not raised.

Although the motion includes some language describing each of these requirements, because the motion is poorly fashioned, the grounds for the motion remain unclear. It is also unclear, what facts, if any would support the grounds for the motion.

Although most of the basic requirements under MCR 6.502 (C) are met, the indispensable requirements of explaining the grounds upon which relief from judgment should be granted and the facts that support it are lacking.

The Court returns this motion without prejudice. Defendant may renew the motion for relief from judgment. However, it is essential that any future motion filed with this Court be complete including the grounds upon which relief should be granted and the facts that support such grounds.

The Court further denies leave to exceed the page limit with a 99 page document.
X Defendant may file a brief along with the motion, not to exceed 25 pages.

Under MCR 6.502 (G) (2), after August 1, 1995, one and only one motion for relief from judgment may be filed with regard to a conviction. Defendant has one chance to file a proper motion for relief for judgment with this Court. He must satisfy the requirements of MCR 6.502 before the motion is further considered.

Order

It is ordered, that Edwin Lamar Langston's motion for relief from judgment is returned.

Dated: September 22, 2003

Hon. William C. Buhl
Circuit Judge

Certificate of Service/Mailing

I certify that on this date, copies of this document were served upon the parties or their attorneys by ordinary mail addressed to the address last shown on a pleading in this cause.

Date: _____

_____
Judicial Secretary

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EXHIBIT H

MSC ORDER FOR SUPPLEMENTAL BRIEFS

Order

Michigan Supreme Court
Lansing, Michigan

January 31, 2025

Elizabeth T. Clement,
Chief Justice

163968

Brian K. Zahra
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163968
COA: 358537
Van Buren CC: 76-002701-FC

EDWIN LAMAR LANGSTON,
Defendant-Appellant.

_____/

On January 22, 2025, the Court heard oral argument on the application for leave to appeal the December 2, 2021 order of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.305(H)(1). We DIRECT the parties to file supplemental briefs addressing: (1) whether a mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under Const 1963, art 1, § 16 or US Const, Am VIII, in all cases decided before *People v Aaron*, 409 Mich 672 (1980), where the jury was not required to make a finding of malice, or only in those pre-*Aaron* cases where overwhelming evidence of malice was not otherwise presented at trial; (2) if the latter, the standard by which the courts should determine whether sufficient evidence of malice was presented and the means by which a defendant should present such an argument; and (3) what remedy is required if any defendants' sentences of mandatory life imprisonment without parole are found invalid. The plaintiff-appellee shall file its supplemental brief within 21 days of the date of this order, and the defendant-appellant shall file its supplemental brief within 21 days of the date the plaintiff-appellee's supplemental brief is filed in this Court.

THOMAS, J., not participating because of her prior involvement in this case.

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

January 31, 2025

Clerk

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EXHIBIT I

MSC ORDER

Order

Michigan Supreme Court
Lansing, Michigan

March 28, 2025

Elizabeth T. Clement,
Chief Justice

163968

Brian K. Zahra
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163968
COA: 358537
Van Buren CC: 76-002701-FC

EDWIN LAMAR LANGSTON,
Defendant-Appellant.

_____/

By order of January 31, 2025, the parties were directed to file supplemental briefs. On order of the Court, the supplemental briefs having been received, the application for leave to appeal the December 2, 2021 order of the Court of Appeals is again considered, and it is GRANTED. The time allowed for oral argument shall be 20 minutes for each side. MCR 7.314(B)(1). The parties shall address: (1) whether *People v Aaron*, 409 Mich 672 (1980), correctly limited its application to prospective-only relief; (2) whether, in the absence of evidence that the defendant acted with malice, mandatory life without parole for felony murder constitutes cruel and/or unusual punishment under Const 1963, art 1, § 16 or US Const, Am VIII; (3) whether *People v Hall*, 396 Mich 650 (1976), should be overruled; (4) whether a mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under Const 1963, art 1, § 16 or US Const, Am VIII, in all cases decided before *Aaron*, *supra*, where the jury was not required to make a finding of malice, or only in those pre-*Aaron* cases where overwhelming evidence of malice was not otherwise presented at trial; (5) if the latter, the standard by which the courts should determine whether sufficient evidence of malice was presented and the means by which a defendant should present such an argument; and (6) what remedy is required if any defendants' sentences of mandatory life imprisonment without parole are found invalid.

Amici who have appeared in this case are invited to file supplemental briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

THOMAS, J., not participating because of her prior involvement in this case.

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

March 28, 2025

Clerk

p0325

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