Order

Michigan Supreme Court
Lansing, Michigan

May 15, 2026

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

SC: 168409
COA: 372612
Lenawee CC: 15-017657-FC

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

JOEL DEAN KUROWICKI,
Defendant-Appellant.

By order of November 26, 2025, the plaintiff was directed to answer the application for leave to appeal the February 24, 2025 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered, and it is DENIED, because the defendant has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).

WELCH, J. (*dissenting*).

A jury convicted defendant Joel Dean Kurowicki of three counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a). The conviction stems from allegations that defendant repeatedly sexually abused his stepson, WH. The allegations are brutal, but the evidence was limited: the trial was essentially a credibility contest between defendant and WH, and there were reasons to question WH's credibility. Now, through his first motion for relief from judgment, defendant provides new evidence that could affect WH's credibility. Specifically, defendant provides evidence that suggests that WH has falsely accused others of physical and sexual abuse.

I believe that defendant's new impeachment evidence could make a different result probable on retrial. For that reason, I would have remanded the case to the Court of Appeals for consideration as on leave granted. I therefore respectfully dissent from the Court's denial order.

I. FACTUAL AND PROCEDURAL BACKGROUND

Defendant was briefly married to PW, and he lived with her for approximately two years. PW had two young children, WH and KH. PW and defendant lived together when WH was four to six years old. WH alleged that during that time, defendant abused him every day.

Before trial, defendant filed a motion in limine seeking to admit evidence that WH had sexually assaulted KH.[1] The trial court reviewed the evidence *in camera* and concluded that it was not admissible under the rape-shield statute. The Court of Appeals affirmed that holding on direct appeal. See *People v Kurowicki*, unpublished per curiam opinion of the Court of Appeals, issued November 7, 2019 (Docket No. 343168), pp 2-3.

WH testified at trial that while defendant lived with PW, he would "molest" WH every day. WH testified specifically that defendant would "shove his . . . private parts in my butt, in my mouth, shove his fingers up my butt, and made me do the same to him, and then he would . . . sometimes he would shove pencils up my butt, which I hated."

PW testified at trial, as well. Lending support to WH's testimony, PW testified that defendant was often home alone with WH and KH. She also testified that during the time that she lived with defendant, WH began acting out in school. On one occasion, for example, WH tried to insert a pencil into his anus. That incident raised suspicions that WH had been sexually abused. In response, caseworkers had a physician examine WH. According to PW, however, the physician found no evidence of sexual abuse. In other words, during the time that defendant was sexually abusing WH daily—including through anal penetration—a doctor apparently found no physical signs of abuse.

The only other witness to testify at trial was Waylon Jones of the Michigan State Police. Jones testified about the process of investigating WH's allegations. But he did not provide any new corroborating evidence.

The jury convicted defendant as charged, and the Court of Appeals affirmed on direct appeal. See *Kurowicki*, unpub op at 1. With the assistance of counsel, defendant then conducted a postconviction investigation. Through that investigation, defendant obtained new evidence. Based upon that evidence, defendant filed the instant motion for relief from judgment.

Although defendant's motion presents quite a bit of evidence that defendant purports to be relevant to a motion for relief from judgment, only two pieces of new evidence stand out. First, defendant provides a police report indicating that after accusing defendant of sexual assault, WH also accused his mother, PW, of sexual assault, but that

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[1] With respect to the allegations that WH sexually assaulted KH, WH entered into a plea agreement that allowed for a conviction on an offense that was unrelated to sexual conduct.

the investigator found the allegations incredible. That report further indicates that the investigator also believed that WH made false allegations that one of PW's romantic partners, identified only as "Leandro," physically abused him. Second, defendant provided an affidavit from Benjamin Rickard, another of PW's former romantic partners, indicating that WH had falsely accused him of physical abuse.

The trial court denied defendant's motion for relief from judgment. The trial court found defendant's evidence to be either (1) not newly discovered, (2) cumulative, (3) previously discoverable with reasonable diligence, or (4) irrelevant. The Court of Appeals denied defendant's application for leave to appeal. This application followed.

II. DISCUSSION

This is defendant's first motion for relief from judgment. The Court may not grant a motion for relief from judgment if the motion "alleges grounds for relief which were decided against the defendant in a prior appeal or proceeding . . . unless the defendant establishes that a retroactive change in the law has undermined the prior decision[.]" MCR 6.508(D)(2). A defendant seeking relief from judgment must demonstrate good cause for failing to raise the current nonjurisdictional issues on direct appeal. MCR 6.508(D)(3)(a).

In this case, defendant probably satisfies the procedural bar. Although defendant arguably could have obtained the new evidence before trial with reasonable diligence, see *id*., defendant argues that his trial counsel was ineffective for failing to procure such evidence. Ineffective assistance of counsel can satisfy the procedural bar. See, e.g., *People v Gardner*, 482 Mich 41, 50 n 11 (2008).

The key issue, then, is whether the new evidence would make a different result probable on retrial, see *People v Cress*, 468 Mich 678, 692 (2003), or whether defense counsel's ineffectiveness resulted in prejudice, see *People v Reed*, 449 Mich 375, 400-401 (1995). On that front, I believe that this matter is worthy of closer inspection.

As a threshold matter, I suspect that the evidence with respect to WH's allegations against PW and Rickard is admissible. MRE 608(a) provides that "[a] witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character." And MRE 608(b) provides that trial courts "may, on cross-examination, allow [specific instances of a witness's conduct] to be inquired into if they are probative" of the witness's character for truthfulness.

In its answer to defendant's application for leave to appeal, the prosecution argues that the new evidence is inadmissible under *People v Musser*, 494 Mich 337 (2013). But *Musser* concerned a police officer who vouched for a complainant's credibility. See *id*. at 350-351. By contrast, we have long held that a complainant's history of making false

allegations may be admissible for impeachment purposes. See, e.g., *People v Butler*, 513 Mich 24, 31-32 (2024); *People v Hackett*, 421 Mich 338, 348-349 (1984). See also *People v Williams*, 191 Mich App 269, 272 (1991) ("Such false accusations are relevant in subsequent prosecutions based upon the victim's accusations because the fact that the victim has made prior false accusations of rape directly bears on the victim's credibility and the credibility of the victim's accusations in the subsequent case, and preclusion of such evidence would unconstitutionally abridge the defendant's right to confrontation.").

If WH's allegations against PW and Rickard are admissible, I believe that they cast doubt on defendant's conviction. Simply put, the evidence against defendant was not very strong. The only concrete evidence against him was WH's allegations, PW's testimony that defendant and WH were often home when PW was at work, and PW's testimony that WH's misbehavior started around the time that defendant moved in. But that evidence is weaker when considered alongside PW's testimony that a doctor found no signs of abuse after examining WH during a time that WH claimed defendant was assaulting him every day.

The new evidence further weakens the case against defendant. The case hinged on WH's credibility, and defendant has presented evidence that WH may have previously made false allegations against PW, Leandro, and Rickard. Because the case against defendant relied almost exclusively upon WH's credibility, I believe that the new evidence—and the effect it might have on WH's credibility—is worthy of appellate review. For that reason, I would have remanded this matter to the Court of Appeals for consideration as on leave granted.[2]

III. CONCLUSION

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[2] Although the issue is not currently before us, I also question whether the lower courts applied the rape-shield statute correctly. Recall that before trial and on direct appeal, the lower courts held that the rape-shield statute barred admission of evidence that WH sexually assaulted KH. The rape-shield shield statute concerns the inadmissibility of "evidence of a rape victim's prior sexual conduct with others, and sexual reputation, when offered to prove that the conduct at issue was consensual or for general impeachment . . . ." *Hackett*, 421 Mich at 347-348, citing *People v Arenda*, 416 Mich 1, 10 (1982). The Legislature enacted the statute in response to the fact that, historically, "[a]llegations of rape were perceived as easily fabricated, and, accordingly, a woman's chastity—or lack thereof—was believed to be probative of whether she consented to the sexual act at issue." *People v Sharpe*, 502 Mich 313, 324 (2018), citing *People v LaLone*, 432 Mich 103, 123-124 (1989) (ARCHER, J., concurring in part and dissenting in part). With that history and legislative purpose in mind, I am dubious that the Legislature intended the rape-shield statute to apply to evidence that a complainant previously raped someone.

I believe that defendant's motion for relief from judgment provides new evidence that would make a different result probable on retrial. Accordingly, I respectfully dissent from the Court's denial order.

BOLDEN, J., joins the statement of WELCH, J.

I, Elizabeth Kingston-Miller, 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.

May 15, 2026

Clerk