

Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V KELLIE STOCK

Docket No. 381874

LC No. 17-003509-01-FC

Philip P. Mariani
Presiding Judge

Christopher M. Murray

Brock A. Swartzle
Judges

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

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. When the trial court denied defendant's motion for a new trial in 2018, the state of the law at that point in time was that a defendant raising a claim of ineffective assistance of counsel premised on the failure to call witnesses would have to demonstrate that the failure deprived the defendant of a substantial defense. See, e.g., *People v Jackson (On Reconsideration)*, 313 Mich App 409, 432; 884 NW2d 297 (2015). However, in *People v Jurewicz*, 506 Mich 914 (2020), the Supreme Court held that a defendant is not required to make such a showing, and that a claim of ineffective assistance of counsel premised on the failure to call witnesses is subject to the "same standard as all other claims of ineffective assistance of counsel," meaning that a defendant must show that trial counsel's performance was deficient and that but for that deficient performance, there is a reasonable probability of a different outcome. To the extent the trial court's challenged order implies that the "substantial defense" requirement must still be met, the trial court erred. However, defendant nonetheless failed to demonstrate entitlement to relief from judgment, as she has not demonstrated that trial counsel's performance was deficient or that, but for any alleged deficient performance by counsel, there is a reasonable probability of a different result. Defendant also failed to demonstrate that appellate counsel was ineffective for failing to raise any such issue on appeal. Accordingly, the trial court reached the correct result by denying the motion for relief from judgment.



Presiding Judge



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

October 9, 2026

Date



Chief Clerk