Order

Michigan Supreme Court
Lansing, Michigan

November 6, 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: 169324
COA: 375889
Wayne CC: 14-002959-FC

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

CARL SEARS,
Defendant-Appellant.

By order of April 24, 2026, plaintiff was directed to answer the application for leave to appeal the October 14, 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 defendant has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).

WELCH, J. (*concurring*).

I concur in the denial order. I write separately to explain that defendant has raised issues that could warrant future attention. Specifically, if defendant had actual impeachment evidence supporting his belief that the only eyewitness who testified against him had been convicted of crimes involving theft or dishonesty before trial, he may be entitled to relief from judgment.

In December 2013, Deric Thomas was shot multiple times. He survived, but sustained serious injuries. Thomas identified defendant Carl Sears and defendant's cousin, Robert Bates, as the shooters. For his part, defendant insisted two unknown men assailed both him and Thomas. Based largely on Thomas's testimony, a jury convicted defendant of assault with intent to murder and several related gun crimes. Relevant here, Thomas testified at trial that he had no convictions related to theft or dishonesty in the prior 10 years. See MRE 609 (allowing trial courts to, under certain circumstances, admit impeachment evidence "attacking a witness's character for truthfulness by evidence of a criminal conviction" containing an element of dishonesty, false statement, or theft).

Defendant filed this successive motion for relief from judgment questioning Thomas's credibility.[1] First, defendant points to Thomas's testimony at Bates's trial in 2017. Thomas was an extraordinarily uncooperative witness, leading the trial court to excuse him, strike his testimony, and enter a directed verdict in favor of Bates. Thus, the person who Thomas alleged was the other shooter (in addition to defendant) was acquitted. Second, defendant proffers an affidavit from Cyra Hudson. Hudson asserts that in 2017, around the time of Bates's trial, Thomas showed up at her doorstep and told her that he had been "shot by a woman in an altercation over her husband being beat up." Finally, defendant points out that Thomas was convicted in 2023 of falsely reporting a felony after he claimed in 2021 that a Barry County jail employee sexually assaulted him during a search. See *People v Thomas*, unpublished per curiam opinion of the Court of Appeals, issued October 4, 2024 (Docket No. 365845) (affirming Thomas's conviction and sentence).

The lower courts denied defendant's motion for relief from judgment, focusing on the fact that "[d]efendant has not shown that [Thomas] actually *recanted*, or that he would if a new trial is held." See *People v Sears*, unpublished order of the Court of Appeals, entered October 14, 2025 (Docket No. 375889) (emphasis added). That may be. But even if Thomas has not *recanted* his earlier accusations, defendant might still be entitled to a new trial if he can use newly discovered evidence to effectively *impeach* Thomas's trial testimony.

"[N]ewly discovered impeachment evidence *ordinarily* will not justify the grant of a new trial." *People v Grissom*, 492 Mich 296, 317-318 (2012) (emphasis added). However, such evidence can satisfy the standard for granting a new trial "when (1) there is an exculpatory connection on a material matter between a witness's testimony at trial and the new evidence and (2) a different result is probable on retrial." *Id*. at 319, citing *People v Cress*, 468 Mich 678, 692 (2003), and *United States v Quiles*, 618 F3d 383, 392 (CA 3, 2010). In determining whether newly discovered evidence would make a different result probable, "the trial court must consider the evidence that was previously introduced at trial," as well as "the evidence that would be admitted at *retrial*." *People v Johnson*, 502 Mich 541, 571 (2018).

The prosecution's case here relied principally on Thomas's testimony. There were no other eyewitnesses, nor was there forensic evidence conclusively establishing that defendant was the shooter. For his part, defendant testified in his own defense and provided an alternative version of events in which Thomas was shot while he and defendant were attempting to purchase drugs. Thus, defendant's theory of the case *depended* on undercutting Thomas's credibility. And the prosecutor's case depended on the jury

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[1] Defendant also proffers an affidavit from an alleged eyewitness (John Palmer), who claims to have seen two unidentified men commit the shooting.

crediting Thomas's testimony. Accordingly, if defendant presented evidence that Thomas lied about his prior conviction record in defendant's trial, defendant's case would probably be comparable to other cases where we have held that impeachment evidence was "sufficiently important to the determination of guilt or innocence that it could change the result on retrial." *Grissom*, 492 Mich at 314. See also *People v Armstrong*, 490 Mich 281 (2011).

In his current motion for relief from judgment, defendant relied upon Thomas's 2023 false reporting conviction. But because defendant was convicted in 2014, Thomas's 2023 conviction cannot serve as evidence that Thomas lied when he testified that he had no convictions related to theft or dishonesty in the prior 10 years. And evidence that Thomas lied in 2021 when he falsely reported a crime is of limited value in determining whether he told the truth in 2014.

But if defendant were able to present evidence of a conviction involving theft or dishonesty *before* his trial occurred, that could satisfy the goal that defendant tries to achieve through this motion: presenting newly discovered evidence seriously calling into question Thomas's credibility. That is because, as mentioned earlier, Thomas testified at defendant's trial that he had no convictions related to theft or dishonesty in the prior 10 years. See MRE 609. And based upon the transcript from Thomas's sentencing hearing for his 2023 false reporting conviction, it is possible that Thomas might have had other convictions involving theft or dishonesty—and that some of them may have occurred before defendant's trial. It seems to me that records of those crimes could have been used to impeach Thomas at trial and, if defendant can satisfy the procedural hurdles set forth above, they could be valuable at retrial. See MRE 609(a); *Johnson*, 502 Mich at 571.[2]

I concur in the Court's denial order because defendant has not provided evidence of

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[2] At trial, defense counsel noted that he was unable to obtain Thomas's criminal record. The prosecutor stated that she did not have it in her possession, nor could she legally run a Law Enforcement Information Network (LEIN) search to obtain it. See MCR 6.201(A)(5) (requiring mandatory disclosure in discovery of "a description or list of criminal convictions, known to the defense attorney or prosecuting attorney, of any witness whom the party may call at trial"). On direct appeal, defendant attempted to raise this issue in a Standard 4 brief, attaching a document that purported to show Thomas's criminal history. The Court of Appeals apparently declined to consider it, stating that "[t]he record is . . . void of any indication as to whether Thomas was ever convicted of a crime involving theft or dishonesty. Even on appeal, defendant makes no indication one way or the other[.]" *People v Sears*, unpublished per curiam opinion of the Court of Appeals, issued February 16, 2016 (Docket No. 324082), p 6.

Thomas's having been convicted of a crime involving theft or dishonesty *before* defendant's trial. But if he were able to obtain such evidence, he could file a subsequent motion for relief from judgment.

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.

November 6, 2026

Clerk