Order

Michigan Supreme Court
Lansing, Michigan

November 20, 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: 169357
COA: 361842
Saginaw CC: 19-046551-FC

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

DEJUAN THOMPSON,
Defendant-Appellant.

By order of April 3, 2026, plaintiff was directed to answer the application for leave to appeal the October 7, 2025 judgment 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 we are not persuaded that the questions presented should be reviewed by this Court.

HOOD, J. (*dissenting*).

I respectfully dissent from the Court's order denying leave to appeal. The trial court admitted defendant Dejuan Thompson's involuntary and coerced statements at trial. The Court of Appeals identified this error but concluded it was harmless. I would hold oral argument on the application for leave to appeal to consider whether the Court of Appeals correctly concluded that the erroneous admission of Thompson's involuntary statements was harmless beyond a reasonable doubt and to further examine the application of harmless-error review in cases involving coerced statements. I write separately to express my concerns with the application of the harmless-error standard in this context.

Thompson moved to suppress statements he made during a custodial interrogation, arguing that they were involuntary and that their admission would violate his constitutional right against compelled self-incrimination. See US Const, Am V; Const 1963, art 1, § 17. During the interrogation, a detective repeatedly suggested that Thompson's sister, girlfriend, and girlfriend's grandmother could face criminal charges if he did not cooperate. The trial court found that threats made approximately 17 minutes into the interrogation were coercive and suppressed Thompson's statements from that point forward. The Court

of Appeals concluded, however, that the first coercive threat occurred earlier, at the 7:14 mark, when the detective told Thompson that his girlfriend's grandmother was "now a party to this" and that he might seek charges against her for harboring a fugitive. The panel therefore held that all statements Thompson made after the 7:14 mark should have been suppressed by the trial court. Nevertheless, the majority affirmed Thompson's convictions because it concluded that the erroneous admission of those statements was harmless beyond a reasonable doubt.

I disagree with that conclusion for two reasons. First, I disagree with the conclusion that this error was harmless beyond a reasonable doubt. Second, and more broadly, I question the ability of our courts to accurately and consistently measure prejudice resulting from the admission of coerced statements.

The use of an involuntary statement at trial violates the federal and state constitutional protections against compelled self-incrimination. *People v Stewart*, 512 Mich 472, 480 (2023). When preserved constitutional error occurs, the prosecution bears the burden of proving that the error was harmless beyond a reasonable doubt. *Id*. at 501; see also *People v Carines*, 460 Mich 750, 774 (1999). A reviewing court evaluating whether a constitutional error was harmless beyond a reasonable doubt must determine the probable effect of the improperly admitted evidence on the minds of an average jury. *People v Sammons*, 505 Mich 31, 56 (2020); see also *People v Kurylczyk*, 443 Mich 289, 315 (1993) (opinion by GRIFFIN, J.). The question for a reviewing court is whether the average jury would have found the prosecution's case significantly less persuasive had it never heard the erroneously admitted evidence. *Sammons*, 505 Mich at 56.

I question whether the prosecution carried that burden here. Before the coercive threat, Thompson denied involvement in the robbery and made statements suggesting that he directed his sister to survey the house before the robbery. But those statements appeared intertwined with his effort to exculpate his sister. After the threat, Thompson more clearly and directly confessed his own participation in the robbery. As Judge MARIANI explained in dissent, the involuntary statements obtained after the coercive threat at the 7:14 mark were not merely cumulative of Thompson's earlier remarks. See *People v Thompson*, unpublished per curiam opinion of the Court of Appeals, issued October 7, 2025 (Docket No. 361842) (MARIANI, J., concurring in part and dissenting in part), p 2.

More broadly, this case illustrates the shortcomings of harmless-error review when the constitutional violation involves a coerced statement. See *Arizona v Fulminante*, 499 US 279, 288-290 (1991) (White, J., dissenting) (collecting cases rejecting the application of harmless-error analysis to coerced confessions). As the Court recognized, "[a] confession is like no other evidence." *Fulminante*, 499 US at 296 (opinion of the Court). Its admission profoundly affects how a jury evaluates other evidence at trial, including a defendant's other, less direct statements. *Id*. See also *id*. at 289 (White, J., dissenting) (noting the due-process implications of admitting coerced confessions "even when another

confession of the defendant had been properly admitted into evidence"). That makes it particularly difficult for a reviewing court to reconstruct how the jury would have viewed the prosecution's case had it never heard the coerced statement.

That difficulty is compounded when, as here, the trial court identified the wrong point at which the interrogation became coercive. The resulting trial record was developed under an erroneous suppression boundary, and the jury considered statements that should have been excluded. A reviewing court must then attempt to evaluate harmlessness by reconstructing an evidentiary record that the jury itself never experienced. Courts should therefore exercise caution before characterizing an involuntary confession as cumulative of what a criminal defendant had already admitted or concluding that the prosecution has established beyond a reasonable doubt that its erroneous admission did not contribute to the jury's verdict.

The competing analyses by the panel below demonstrate that applying the harmless-error standard to the corrected suppression boundary is not straightforward.[1] More fundamentally, I am concerned that our existing caselaw provides insufficient guidance for determining when the erroneous admission of a coerced confession is harmless beyond a reasonable doubt. Additional guidance could promote greater uniformity in harmless-error review. Without such guidance, reviewing courts may reach materially different conclusions while applying the same general standard to similar factual circumstances. Even with additional guidance, however, it may be impossible for reviewing courts to reliably determine the effect that a coerced confession had on the jury's verdict. See *Fulminante*, 499 US at 290-295 (White, J., dissenting) (arguing that the admission of a coerced confession, like a structural defect, defies harmless-error analysis). I would hold oral argument on the application to consider what significance courts should give to the uniquely persuasive character of a confession, the qualitative differences between a defendant's admissible and inadmissible statements, and an erroneous suppression boundary when assessing harmlessness. I would also ask the parties to address whether the erroneous admission of a coerced confession constitutes structural error under Article 1, § 17 of the Michigan Constitution, including whether the harmless-error rule adopted in *Fulminante* is consistent with the protections against coerced confessions understood to exist when Michigan's Constitution was ratified in 1963. See *People v Jennings*, ___ Mich ___, ___ (July 24, 2026) (Docket No. 165764); slip op at 28-37.

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[1] See also *People v Soriano*, ___ Mich ___, ___ (July 7, 2026) (Docket No. 167373); slip op at 19-23 (holding that the Court of Appeals erred in its harmless-error analysis by treating the existence of sufficient untainted evidence as dispositive of harmlessness and reiterating that the proper question for evaluating harmless error is whether the average jury would have found the prosecution's case significantly less persuasive without the erroneously admitted evidence).

Put simply, I have a doubt about whether the acknowledged error of admitting the coerced confession at Thompson's trial affected the outcome. That doubt is reasonable. But I continue to question whether this is the right way to measure the impact of such a profound error. For these reasons, and those stated above, I respectfully dissent.

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

November 20, 2026

Clerk