

Order

Michigan Supreme Court
Lansing, Michigan

September 12, 2018

Stephen J. Markman,
Chief Justice

156940

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 156940
COA: 338529
Saginaw CC: 10-033800-FH

PETER ALFRED PEREZ,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 20, 2017 order of the Court of Appeals is considered, and it is DENIED, because the defendant has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).



t0905

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.

September 12, 2018

Clerk

Court of Appeals, State of Michigan

ORDER

People of MI v Peter Alfred Perez

Docket No. 338529

LC No. 10-033800-FH

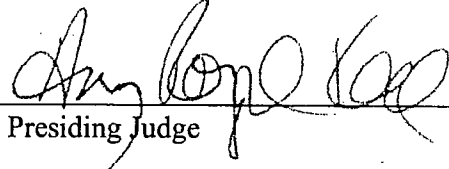
Amy Ronayne Krause
Presiding Judge

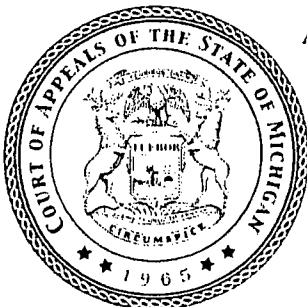
Patrick M. Meter

Brock A. Swartzle
Judges

The Court orders that the motion to waive fees is GRANTED and fees are WAIVED for this case only.

The Court orders that 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

NOV 20 2017

Date


Chief Clerk

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff,

Case No. 10-033800-FH

-vs-

Hon. Andre R. Borrello

PETER ALFRED PEREZ

Defendant.

JOHN A. McCOLGAN
Saginaw Prosecuting Attorney
111 S. Michigan Ave.
Saginaw MI 48602

PETER ALFRED PEREZ #230341
Pro Per
Richard A. Handlon Correctional Facility
1728 Bluewater Highway
Ionia, MI 48846

FILED
SAGINAW COUNTY, MICH
2017 MAR 14 PM 2 14
MICHAEL J. HANLEY
COUNTY CLERK
BY DEPUTY CLERK
A TRUE COPY
Michael J. Hanley, Clerk

**OPINION AND ORDER OF THE COURT DENYING DEFENDANT'S
MOTION FOR RELIEF FROM JUDGMENT**

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE IN THE CITY AND
COUNTY OF SAGINAW, STATE OF MICHIGAN, THIS 14 DAY OF March, 2017.

PRESENT: THE HONORABLE ANDRE R. BORRELLO CIRCUIT COURT JUDGE.

Status

Presently before the Court is Defendant's Motion for Relief from Judgment pursuant to MCR 6.502. For the reasons set forth below, the Motion is DENIED.

Factual and Procedural History

On April 14, 2011, Defendant was convicted by a jury of eight counts of third-degree criminal sexual conduct.¹ Later, on June 8, 2011, Defendant was sentenced to 25 to 52 years in prison. On October 30, 2012, our Court of Appeals affirmed Defendant's convictions and sentence;² subsequently, our Supreme Court refused to hear the case.³ Now, Defendant has filed the instant motion seeking relief from his convictions.

¹ See MCL 750.520d(1)(a).

² See *People v Perez*, unpublished opinion per curiam of the Court of Appeals, issued October 30, 2012 (Docket No. 305006).

Law and Analysis

Defendant "has the burden of establishing entitlement to the relief requested." MCR 6.508(D). This Court may not grant a motion for relief from judgment if the grounds alleged were already decided against Defendant in a prior appeal. MCR 6.508(D)(2). Likewise, this Court may not grant the motion if the grounds alleged (other than jurisdictional defects) could have been raised in a prior appeal from the conviction or sentence unless Defendant demonstrates good cause for failing to previously raise the grounds and actual prejudice. MCR 6.508(D)(3)(a) & (b).

In this case, Defendant raises five grounds that he claims entitle him to relief, to wit: (1) he was denied his right to an impartial jury because a police officer enumerated past crimes to the jury prior to the jury even becoming empaneled; (2) he was denied his right to due process because the prosecution refused to divulge the names of witnesses that would have provided him with a viable defense; (3) the trial court abused its discretion by not holding a hearing to determine if other acts evidence would be admissible against him; (4) his trial counsel was ineffective for various reasons; and (5) the trial court erred by refusing to grant his request for a mistrial.

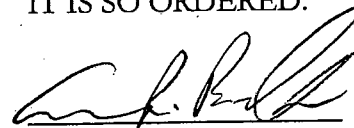
Here, all of Defendant's arguments are procedurally barred. Indeed, every argument Defendant raises now was either not raised in his appeal from his conviction and sentence or was already rejected by our Court of Appeals. Our Court of Appeals has already held that the "other acts" evidence was properly admitted against Defendant. See *Perez*, *supra* at 4. In regard to Defendant's remaining arguments, all of which he failed to raise in his direct appeal, Defendant does not even attempt to establish good cause for failing to previously raise the arguments, nor does he attempt to articulate any actual prejudice that he suffered from failing to do so. In short, all of Defendant's arguments are procedurally barred by MCR 6.508(D)(2) and MCR 6.508(D)(3)(a) & (b). Therefore, Defendant's motion for relief from judgment is denied.

Conclusion

For the reasons stated above, Defendant's motion for relief from judgment is DENIED.

IT IS THEREFORE ORDERED that Defendant's Motion for Relief from Judgment is DENIED.

IT IS SO ORDERED.



Andre R. Borrello
Circuit Court Judge

³ *People v Perez*, 493 Mich 953; 828 NW2d 53 (2013).