

ORIGINAL

18-9740
No. _____

FILED
JAN 28 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

Myron Gregory Jessie — PETITIONER
(Your Name)

vs.

The State of Michigan — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Michigan Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Myron Gregory Jessie
(Your Name)

Marquette Branch Prison, US Hwy 41 South
(Address)

Marquette, Michigan 49855
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Was the evidence insufficient to convict defendant - Appellant MYRON JESSIE as an aider and abettor to armed robbery and 1st degree home invasion? Did his convictions of those offenses therefore violate his right to due process?
2. Is resentencing required because the trial court erroneously scored offense variables 8, 10, and 13?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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APPENDIX A The State court of appeals denied all claims made by Mr. Jessie.

APPENDIX B The Michigan Supreme Court has denied the application for leave to appeal.

APPENDIX C State trial court confirmed Mr. Jessie's convictions of armed robbery and first degree home invasion

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TABLE OF AUTHORITIES CITED

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| People v Kosik, 302 Mich App (2013) | 14 |
| People v Lee, 391 Mich 618; 218 NW2d 655 (1974) | 11 |

STATUTES AND RULES

- MCR 2.613(A)
- MCR 6.425(F)(3)
- MCR 6.429(C)
- MCR 7.203(A)
- MCR 7.204(A)(2)

OTHER

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was October 31, 2018. A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

MCL 600.308(1)
MCL 750.110 a
MCL 750.529
MCL 769.34(10)
MCL 770.3
MCL 777.31(2)(b)
MCL 777.32(2)
MCL 777.33(2)(a)
MCL 777.38
MCL 777.38(1)
MCL 777.38(2)
MCL 777.40(3)(a)
MCL 777.43(1)
MCL 777.43(1)(c)
MCL 777.43(1)(g)
MCL 777.43(2)(a)
Mich. Const. 1963, the 2007
Mich. Const. 1963, art. 1, § 17
U.S. Const. Am. XIV, § 20
U.S. Const., Amends V, XIV

STATEMENT OF THE CASE

On September 22, 2016, following a three-day jury trial in the Wayne County Circuit Court before the Honorable Mark T. Slavens, defendant - appellant Myron Jessie was convicted of two counts of armed robbery¹ and first degree home invasion.² (T IV 73-81).³ Judge Slavens later sentenced him to concurrent terms of 24-to-50 years for each armed robbery and 9-to-30 years for first-degree home invasion. (ST 26).

4.

REASONS FOR GRANTING THE PETITION

Mr. Jessie did not aid and abet armed robbery, neither did he aid and abet a home invasion and It has not been proven beyond a reasonable doubt. The requisite intent to be aid and abet can be established only by direct or circumstantial evidence. Factors relevant to such intent were not presented.

The prosecution presented no evidence that Mr. Jessie knew or intended that Miller and Matlock would enter the McNamara's home and commit larceny, armed or otherwise. The remedy is to vacate and dismiss Mr. Jessie's convictions.

Resentencing is required because the trial court erroneously scored offense variables 8, 10, and 13. Under the Michigan and United States Constitutions, defendants have a due process right to be sentenced on the basis of accurate information and in accordance with the law. A sentence must be consistent with "Substantial Justice." It is difficult to imagine something more inconsistent with substantial justice than requiring a defendant to serve a sentence that is based upon inaccurate information. Because it was based solely on co-offender conduct, the 15-point score for OV 8 was improper. The proper score is 0 points. OV 10 should have been scored 0 points instead of 15, because Mr. Jessie did not engage in predatory conduct. OV 13 should have been scored 0 points instead of 25, because Mr. Jessie's participation in the crime at issue was not by itself a "Pattern of felonious criminal activity." The errors require resentencing.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Myron Gregory Jessie

Date: January 29, 2019

6.