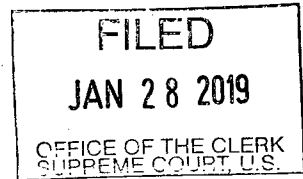


ORIGINAL

No. 18-9740



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 abetter 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:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

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.

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<i>In re Winship</i> , 397 US 358 (1970)	6
<i>Jackson vs Virginia</i> , 443 US 307; 99 S Ct 2781; 61 L Ed 2d 560 (1980)	6
<i>People v Ackah-Essian</i> , 331 Mich App 13 (2015)	14
<i>People v Cannon</i> , 481 Mich 152; 749 NW2d 257 (2008)	11, 13, 16
<i>People v Carines</i> , 470 Mich (1999)	8
<i>People v Chambers</i> , 277 Mich App 1 (2007)	9
<i>People v Francisco</i> , 474 Mich 82; 711 NW2d 44 (2006)	11, 12, 16
<i>People v Gibbs</i> , 299 Mich App 473; 830 NW2d 821 (2013)	15
<i>People v Gloster</i> , 499 Mich 199 (2016)	12, 16
<i>People v Hampton</i> , 407 Mich 354 (1979)	6
<i>People v Hardy</i> , 494 Mich 430; 835 NW2d 340 (2013)	11
<i>People v Hunt</i> , 290 Mich App 317; 810 NW2d 588 (2010)	12
<i>People v Houston</i> , 489 Mich 451; 802 NW2d 261 (2011)	13, 14
<i>People v Kimble</i> , 470 Mich 305 (2004)	11
<i>People v Kosik</i> , 302 Mich App (2013)	14
<i>People v Lee</i> , 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

Table of Authorities Cited Cont.

P.1

Page #

People v Lockridge, 498 Mich 358 (2015)	5, 11
People v Malkowski, 385 Mich 244; 188 NW2d 559 (1971)	11
People v Patterson, 428 Mich 502 (1987)	6
People v Robinson, 475 Mich 1 (2006)	8, 9
People v Sours, 315 Mich App 346; 890 NW2d 401 (2016)	12
People v Wolfe, 440 Mich 508 (1992)	6

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), the 2007
Mich. Const. 1963, art. 1, § 17
Mich Const 1963, art 1, § 20
U.S. Const Am XIV
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 robbery' and first degree home invasion? (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).

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. Jessies 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. Jessies 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 23, 2019