

Order

Michigan Supreme Court
Lansing, Michigan

July 2, 2019

Bridget M. McCormack,
Chief Justice

158576(23)

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 158576
COA: 343219
Wayne CC: 89-012514-FC

FLENOID GREER,
Defendant-Appellant.

On order of the Court, the motion for reconsideration of this Court's February 4, 2019 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).

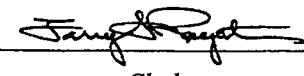
5a



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.

July 2, 2019

s0624



Clerk

Order

Michigan Supreme Court
Lansing, Michigan

February 4, 2019

Bridget M. McCormack,
Chief Justice

158576 & (13)(18)

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 158576
COA: 343219
Wayne CC: 89-012514-FC

FLENOID GREER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 20, 2018 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The motion to remand and the motion for stay of proceedings are DENIED.

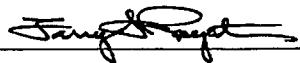
4a



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.

d0128

February 4, 2019


Clerk

Court of Appeals, State of Michigan

ORDER

People of MI v Flenoid Greer

Christopher M. Murray
Presiding Judge

Docket No. 343219

Karen M. Fort Hood

LC No. 89-012514-02-FC

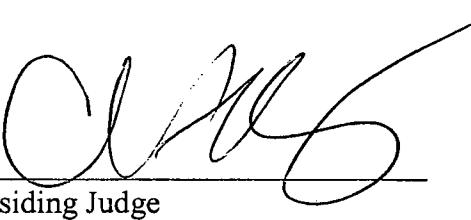
Anica Letica
Judges

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

The delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

The motion to remand is DENIED.

The motion for peremptory reversal pursuant to MCR 7.211(C)(4) is DENIED for failure to persuade the Court of the existence of manifest error requiring reversal and warranting peremptory relief without argument or formal submission.



Christopher M. Murray
Presiding Judge

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A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



SEP 20 2018

Date



Jerome W. Zimmer Jr.
Chief Clerk

STATE OF MICHIGAN
THIRD CIRCUIT COURT
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

Case No. 89-12514-02
Hon. James R. Chylinski

v

FLENOID GREER,
Defendant.

OPINION AND ORDER

AT A SESSION OF SAID COURT HELD IN THE FRANK
MURPHY HALL OF JUSTICE ON 02/07/2018

PRESENT: HONORABLE JAMES R. CHYLINSKI
Circuit Court Judge

For the following reasons enumerated herein, defendant's motion to vacate the orders of August 28, 2013 and November 14, 2013 and motion to amend and supplement defendant's 2013 motion for relief from judgment are denied.

Following a jury trial, defendant was convicted of second-degree murder, **MCL 750.317**. Defendant was sentenced to sixty to ninety years' imprisonment. The Michigan Court of Appeals affirmed Defendant's conviction and sentence on February 24, 1993. Defendant filed a motion for relief from judgment, which resulted in his sentence being reduced to forty to seventy years on August 18, 1998. On January 28, 1999, the Michigan Court of Appeals entered a peremptory order reinstating the original sixty to ninety years. The Michigan Court of Appeals denied Defendant's appeal for resentencing on October 31, 2000.

Defendant's second motion for relief from judgment was denied on July 14, 2011.¹ An evidentiary hearing on defendant's third motion for relief from judgment was granted on August 28, 2013. Defendant's third motion for relief from judgment was denied on November 14, 2013.² Defendant now files a motion to vacate the orders of August 28, 2013 and November 14, 2013 and motion to amend and supplement defendant's 2013 motion for relief from judgment. The Prosecution has not filed a response.

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¹ Defendant's successive motion for relief from judgment

² Defendant's second successive motion for relief from judgment.

In this motion defendant alleges a retroactive change in law, pursuant to *People v Swain* and *People v Watkins*,³ which he asserts are a basis for vacating the opinions and orders of August 28, 2013 and November 14, 2013 and amending/supplementing the previously filed and decided 2013 motion for relief from judgment. However this Court disagrees as *Swain* and *Watkins* are not applicable.

Swain and *Watkins* establish a new rule of criminal procedure. However, newly promulgated rules of criminal procedure do not apply retroactively to cases on collateral review,⁴ and Michigan law has regularly declined to apply new rules of criminal procedure to cases in which a defendant's conviction has become final.⁵ Accordingly, since *Swain* and *Watkins* cannot be applied retroactively in this case and for the reasons set forth above, defendant's reliance in support of his argument is without merit.

Therefore, for all the reasons stated, defendant's motion to vacate the orders of August 28, 2013 and November 14, 2013 and motion to amend and supplement the 2013 motion for relief from judgment are hereby **DENIED**.

DATED: 02/07/2018


CIRCUIT COURT JUDGE

PROOF OF SERVICE

I certify that a copy of the above instrument was served upon the attorneys of record and/or self-represented parties in the above case by mailing it to the attorneys and/or parties at the business address as disclosed by the pleadings of record, with prepaid postage on 02/07/2018.


Name

³ *People v Swain*, 499 Mich 920 (2016); *People v Watkins*, 500 Mich 857 (2016)

⁴ *Dorcy v Jones*, 398 F.3d 783 (2005)

⁵ *People v Maxson*, 482 Mich. 385 (2008)