

NO. \_\_\_\_\_

THE SUPREME COURT OF THE UNITED STATES

Term of the Court: October, 2020-2021

ALTON D. PELICHET

Petitioner,

-vs-

STATE OF MICHIGAN

Respondent.

---

PETITION FOR WRIT OF CERTIORARI  
TO THE MICHIGAN SUPREME COURT.

---

PETITION APPENDIX

By: ALTON D. PELICHET #148688  
Petitioner, in forma pauperis  
Thumb Correctional Facility  
3225 John Conley Drive  
Lapeer, Michigan 48466

NO. \_\_\_\_\_

THE SUPREME COURT OF THE UNITED STATES

Term of the Court: October, 2020-2021

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-vs-

STATE OF MICHIGAN

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PETITION FOR WRIT OF CERTIORARI  
TO THE MICHIGAN SUPREME COURT.

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- APPENDIX A - Order of the Michigan Court of Appeals  
Denying Complaint for Writ of Superintending Control  
Dated: October 02, 2020
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Judicial Attorney to Judge Wanda A. Evans
- APPENDIX C - Order of the Michigan Supreme Court  
Denying Application for Leave to Appeal  
Dated: March 30, 2021
- APPENDIX D - Title 28, USC, §§ 1915 & 1915A
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Michigan Supreme Court, and the trial court.

# Appendix A

**Court of Appeals, State of Michigan**

**ORDER**

Alton D Pelichet v Wayne Circuit Court Judge

Docket No. 354363

LC No. 77-000128-FC


Thomas C. Cameron  
Presiding Judge

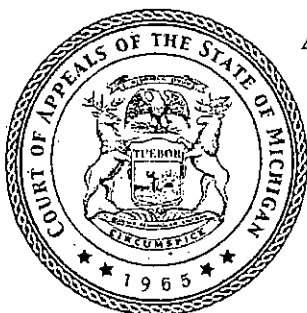
Karen M. Fort Hood

Michael J. Riordan  
Judges

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The complaint for superintending control is DENIED.

  
Presiding Judge



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

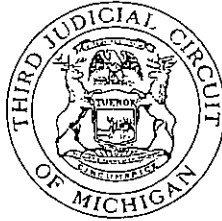
October 2, 2020

Date

  
Chief Clerk

# Appendix B





THIRD JUDICIAL CIRCUIT  
OF MICHIGAN

WANDA A. EVANS  
CIRCUIT COURT JUDGE

FRANK MURPHY HALL OF JUSTICE  
1441 ST. ANTOINE  
DETROIT, MICHIGAN 48226

(313) 224-5192  
FAX (313) 967-2545

June 16, 2020

Alton D. Pelichet #148688  
Thumb Correctional Facility  
3225 John Conley Drive  
Lapeer, Michigan 48446

Re: Motion for Relief from Judgement

Mr. Pelichet:

Enclosed find the Motion for Relief from Judgment which was presented to this Court for filing. Your Motion has undergone a preliminary disposition review and it has been determined that at this time you do not qualify for relief pursuant to MCR 6.502(G)(1) and (G)(2) which state:

(G) Successive Motions.

(1) Except as provided in subrule (G)(2), regardless of whether a defendant has previously filed a motion for relief from judgment, after August 1, 1995, one and only one motion for relief from judgment may be filed with regard to a conviction. The court shall return without filing any successive motions for relief from judgment. A defendant may not appeal the denial or rejection of a successive motion.

(2) A defendant may file a second or subsequent motion based on a retroactive change in law that occurred after the first motion for relief from judgment or a claim of new evidence that was not discovered before the first such motion. The clerk shall refer a successive motion that asserts that one of these exceptions is applicable to the judge to whom the case is assigned for a determination whether the motion is within one of the exceptions. The court may waive the provisions of this rule if it concludes that there is a significant possibility that the defendant is innocent of the crime.

Pelichet, Alton  
June 16, 2020  
Page II

(3) For purposes of subrule (G)(2), "new evidence" includes new scientific evidence. This includes, but is not limited to, shifts in science entailing changes: (a) in a field of scientific knowledge, including shifts in scientific consensus; (b) in a testifying expert's own scientific knowledge and opinions; or (c) in a scientific method on which the relevant scientific evidence at trial was based.

More specifically, this is your second Motion for Relief from Judgment; your previous Motion was filed on June 15, 2006 and denied on October 6, 2006. Your most recent Motion does not allege a retroactive change in the law, nor is there an allegation of newly discovered evidence.

Should there be a retroactive change in the law, or you have evidence of newly discovered evidence which was not discovered before the first such motion, feel free to file another Motion for Relief from Judgment.

Best Regards,

/s/ *Donna M. Bettis*

Donna M. Bettis  
Judicial Attorney  
To Judge Wanda A. Evans



# Appendix C

# Order

Michigan Supreme Court  
Lansing, Michigan

March 30, 2021

Bridget M. McCormack,  
Chief Justice

162199

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh  
Elizabeth M. Welch,  
Justices

ALTON D. PELICHET,  
Plaintiff-Appellant,

v

SC: 162199  
COA: 354363

WAYNE CIRCUIT COURT JUDGE and  
DONNA M. BETTIS,  
Defendants-Appellees.

---

On order of the Court, the application for leave to appeal the October 2, 2020 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.



s0322

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.

March 30, 2021

Clerk

# Appendix D

8 U.S.C. §§ 1913, this section and subsecs. (a) and (b) of 28 U.S.C.A. § 1931] shall take effect 60 days after the date of the enactment of this Act [Dec. 8, 2004]."

1996 Acts. Section 401(c) of Pub.L. 104-317 provided that: "This section [amending this section and section 1931 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 19, 1996]."

1986 Acts. Section 4(c) of Pub.L. 99-336 provided that: "The amendments made by this section [amending this section and provisions of the District of Columbia Code not classified to this Code] shall apply with respect to any civil action, suit, or proceeding instituted on or after the date of the enactment of this Act [June 19, 1986]."

1978 Acts. Amendment by Pub.L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub.L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

#### Court Fees for Electronic Access to Information

Judicial Conference to prescribe reasonable fees for collection by courts under this section for access to information available through automatic data processing equipment and fees to be deposited in Judiciary Automation Fund, see section 303 of Pub.L. 102-140, set out as a note under section 1913 of this title.

### § 1915. Proceedings in forma pauperis

(a)(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the

court each time the amount in the account exceeds \$10 until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

(c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b), the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c) of this title. Such expenses shall be paid when authorized by the Director of the Administrative Office of the United States Courts.

(d) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(e)(1) The court may request an attorney to represent any person unable to afford counsel.

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

(A) the allegation of poverty is untrue; or

(B) the action or appeal—

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

(f)(1) Judgment may be rendered for costs at the conclusion of the suit or action as in other proceedings, but the United States shall not be liable for any of the costs thus incurred. If the United States has paid the cost of a stenographic transcript or printed record for the prevailing party, the same shall be taxed in favor of the United States.

(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.

(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated—

ed or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

(h) As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(June 25, 1948, c. 646, 62 Stat. 954; May 24, 1949, c. 139, § 98, 63 Stat. 104; Oct. 31, 1951, c. 655, § 51(b), (c), 65 Stat. 727; Pub.L. 86-320, Sept. 21, 1959, 73 Stat. 590; Pub.L. 96-82, § 6, Oct. 10, 1979, 93 Stat. 645; Pub.L. 101-650, Title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub.L. 104-134, Title I, § 101[(a)] [Title VIII, § 804(a), (c) to (e)], Apr. 26, 1996, 110 Stat. 1321-73 to 1321-75; renumbered Title I, Pub.L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.)

#### HISTORICAL AND STATUTORY NOTES

##### Change of Name

"United States magistrate judge" substituted for "United States magistrate" in text pursuant to section 321 of Pub.L. 101-650, set out as a note under 28 U.S.C.A. § 631.

##### Severability of Provisions

If any provision of section 101[a] [Title VIII] of Pub.L. 104-134, an amendment made by such Title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of such Title, the amendments made by such Title, and the application of the provisions of such Title to any person or circumstance not affected thereby, see section 101[a] [Title VIII, § 810] of Pub.L. 104-134, set out as a note under section 3626 of Title 18, Crimes and Criminal Procedure.

#### § 1915A. Screening

(a) **Screening.**—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

(b) **Grounds for dismissal.**—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

(2) seeks monetary relief from a defendant who is immune from such relief.

(c) **Definition.**—As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program. (Added Pub.L. 104-134, Title I, § 101[(a)] [Title VIII, § 805(a)], Apr. 26, 1996, 110 Stat. 1321-75; renumbered Title I Pub.L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.)

#### HISTORICAL AND STATUTORY NOTES

##### Severability of Provisions

If any provision of section 101[a] [Title VIII] of Pub.L. 104-134, an amendment made by such Title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional,

the remainder of such Title, the amendments made by such Title, and the application of the provisions of such Title to any person or circumstance not affected thereby, see section 101[a] [Title VIII, § 810] of Pub.L. 104-134, set out as a note under section 3626 of Title 18, Crimes and Criminal Procedure.

#### § 1916. Seamen's suits

In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor.

(June 25, 1948, c. 646, 62 Stat. 955.)

#### § 1917. District courts; fee on filing notice of or petition for appeal

Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or of a writ of certiorari \$5 shall be paid to the clerk of the district court, by the appellant or petitioner.

(June 25, 1948, c. 646, 62 Stat. 955.)

#### § 1918. District courts; fines, forfeitures and criminal proceedings

(a) Costs shall be included in any judgment, order, or decree rendered against any person for the violation of an Act of Congress in which a civil fine or forfeiture of property is provided for.

(b) Whenever any conviction for any offense not capital is obtained in a district court, the court may order that the defendant pay the costs of prosecution.

(June 25, 1948, c. 646, 62 Stat. 955.)

#### § 1919. Dismissal for lack of jurisdiction

Whenever any action or suit is dismissed in any district court, the Court of International Trade, or the Court of Federal Claims for want of jurisdiction, such court may order the payment of just costs.

(June 25, 1948, c. 646, 62 Stat. 955; Pub.L. 96-417, Title V, § 510, Oct. 10, 1980, 94 Stat. 1743; Pub.L. 102-572, Title IX, § 908(a), (b)(1), Oct. 29, 1992, 106 Stat. 4519.)

#### HISTORICAL AND STATUTORY NOTES

##### Effective and Applicability Provisions

1992 Acts. Amendment by Title IX of Pub.L. 102-572 effective Oct. 29, 1992, see section 911 of Pub.L. 102-572, set out as a note under section 171 of this title.

1980 Acts. Amendment by Pub.L. 96-417 applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(E) of Pub.L. 96-417, as amended, set out as a note under section 251 of this title.

#### § 1920. Taxation of costs

A judge or clerk of any court of the United States may tax as costs the following:

(1) Fees of the clerk and marshal;

(2) Fees for printed or electronically recorded transcripts necessarily obtained for use in the case;

(3) Fees and disbursements for printing and witnesses;

# Appendix E

THE COURT: Receive your what?

MR. PELICHET: My wallet and so forth?

THE COURT: You can take that up with the Sheriff. There is no problem there.

MR. PELICHET: Well, it was taken for evidence.

THE COURT: I, too, was impressed with the probation report. But, at the same time, there is a voice that is not heard from, in the probation report, and that is the voice of the deceased, and this was a cold-blooded assault, and while it is not clear that shots from your gun, intentionally, caused the death, the fact of the matter is that you were engaged in the commission of a felony, and under those circumstances, it does not make any difference whether or not you intended to do it, or not. The law says that the fact that you were engaged in that kind of offense supplies the necessary mental state to make it amount to first degree murder.

I don't like the idea of you being at Jackson, or up at Marquette, but, I don't control that. I think the ideal institution for you would be a training unit, or institution, but, I am not certain that the Correction Commission will send someone convicted of murder

to the training unit. If they do, I so recommend it.

But, it is the judgment of this Court that you be committed to the State Correctional Institution for incarceration for not less than ten years, or no longer than fifteen years, and under the conviction, under the conviction of armed robbery, a similar sentence is imposed; on the conviction of assault with intent to rob, being armed, a similar sentence is imposed; and a mandatory sentence of two years is imposed on the conviction of possession of a gun, and in the course of committing a felony; and on the conviction of Murder in the First Degree, there's a mandatory sentence of life imprisonment. All these sentences will run concurrently, and you have a right to take an appeal, and the appeal must be taken within sixty days, and if you can't afford a lawyer, the State will give you a lawyer, and transcript, and thank you, counsel.

- - - -



# Appendix F

STATE OF MICHIGAN  
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALTON DAVID PELICHET,

Defendant-Appellant.

MAR 21 1979

NO. 77-1285

BEFORE: D.C. Riley, P.J., and M.F. Cavanagh and B.M. Hensick, JJ.  
PER CURIAM

Following a non-jury trial, defendant Alton David Pelichet was convicted of committing homicide while he was engaged in the perpetration or attempted perpetration of a robbery, MCL 750.316; MSA 28.548, robbery armed, MCL 750.529; MSA 28.797, assault with intent to rob being armed, MCL 750.89; MSA 28.284, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to life imprisonment for felony-murder, a term of ten to fifteen years for robbery armed, ten to fifteen years for assault with intent to rob being armed, and two years for possession of a firearm during the commission of a felony. He appeals by right.

Defendant asserts that the evidence was insufficient as a matter of law to establish the element of malice in the felony-murder count. We are aware of the split of authority in this Court as to whether malice is in fact a necessary element in felony-murder. However, as this was a non-jury trial, we do not have questionable instructions before us. We do have a clear expression by the trial judge that he understood defendant's theory to be that he did not intend to kill

the victim and that the shooting was accidental. The trial court just as clearly stated he did not believe the defendant's version and found him guilty of felony-murder. According to People v Hansen, 368 Mich 344, 350-351; 118 NW2d 422 (1966), malice requires:

"[A]n intent to cause the very harm that results or some harm of the same general nature, or an act done in wanton or wilful disregard of the plain and strong likelihood that some such harm will result. It requires also on the negative side the absence of any circumstance of justification, excuse, or recognized mitigation."

People v Fountain, 71 Mich App 491; 248 NW2d 589 (1976), at page 500, was careful to point out that the fact that the defendant employed a loaded gun to effectuate the robbery may be sufficient to infer the existence of malice, in that the defendant's act may be construed as a disregard of the strong likelihood that the killing would result. So in the instant case, our review of the testimony leads us to conclude that the element of malice could easily be inferred from the circumstances present. The trial court did not err in this finding.

Two of the remaining issues raised by defendant do, however, have merit. Each raises a double jeopardy argument as to the convictions of robbery armed and felony-firearm respectively. We are persuaded that the proscription against multiple convictions contained in People v Anderson, 62 Mich App 475; 233 NW2d 620 (1975), applies. It was therein stated, at pp 482-483:

"For if the jury's first-degree murder conviction was based on a finding that the killing took place during the perpetration of the armed robbery, then the armed robbery constitutes a necessary element of first-degree (felony) murder. As a necessary element of first-degree murder, armed robbery would then become an included offense in the greater charge. People v Simpson, 5 Mich App 479; 146 NW2d 828 (1966). To punish defendant both for the greater offense, that is, first-degree (felony) murder, and for the included offense, which would be in this case armed robbery, would constitute double punishment in violation of the double jeopardy clauses of the United States Constitution and the Michigan Constitution. This double punishment aspect arises from the fact that the Michigan felony murder statute combines a killing which would normally be less than first-degree murder with the underlying felony with the result that the total transaction becomes first-degree murder. The punishment for first-degree murder is obviously greater than that for either of the combined elements. Thus, part of the

punishment for felony murder can be attributed to the underlying felony. In this case, if the underlying felony was indeed armed robbery, then defendant had been sentenced for armed robbery when sentenced for felony murder and could not again be sentenced for the robbery armed part of the crime."

This view has been subsequently supported by People v Martin, 398 Mich 303; 247 NW2d 303 (1976), People v Stewart, (on rehearing), 400 Mich 540; 256 NW2d 31 (1977), and Brown v Ohio, 45 L W 4697 (U.S. June 16, 1977). See also 23 Wn L 590, n. 388<sup>1</sup>.

We find this rationale equally applicable to the felony-firearm conviction. See People v Hughes, (D.F. Walsh, J., dissenting), 85 Mich App 674; \_\_\_ NW2d \_\_\_ (1978).

For the foregoing reasons, we affirm defendant's conviction for felony-murder. His convictions and sentences for armed robbery and felony-firearm are vacated.

Room, in the City of Lansing, on the 25th day of

August in the year of our Lord one thousand nine hundred and eighty one.

Present the Honorable

MARY S. COLEMAN,  
Chief Justice.

THOMAS GILES KAVANAGH,  
G. MENNEN WILLIAMS,  
CHARLES L. LEVIN,  
JOHN W. FITZGERALD,  
JAMES L. RYAN,  
BLAIR MOODY, JR.,  
Associate Justices

CR 26-47

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,

v

ALTON DAVID PELICHET,

Defendant-Appellee.

SC: 62957  
COA: 77-1285  
LC: 77-00128

On order of the Court, plaintiff-appellant's application for leave to appeal having been ordered held in abeyance pending decision in People v Wilder (Docket No. 61305), and said decision having been issued on July 13, 1981, 411 Mich 328,

Now, therefore, the application is considered and, pursuant to GCR 1963, 853.2(4), in lieu of granting leave to appeal, we REVERSE that portion of the Court of Appeals judgment which set aside the defendant's felony-firearm conviction and REINSTATE his conviction for possession of a firearm in the Commission of a felony. Wayne County Prosecutor v Recorder's Court Judge, 406 Mich 374; 280 NW2d 793 (1979).

In all other respects the application for leave to appeal is DENIED.

PROSECUTOR'S OFFICE  
Appellate Department

AUG 26 1981

812

STATE OF MICHIGAN — ss.

I, Harold Hoag, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at

Lansing, this 25th day of August  
in the year of our Lord one thousand nine hundred and eighty one.

Carl R. Davis

Clerk.



STATE OF MICHIGAN  
IN THE THIRD JUDICIAL CIRCUIT COURT  
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff,

Criminal Division  
Case No. 77-00128

v

Hon. Mary M. Waterstone

ALTON PELCHET  
Defendant.

---

OPINION

On February 23, 1977, defendant was convicted at a bench trial of First-Degree Felony Murder MCL 750.316; MSA 28.548; Armed Robbery MCL 750.529; MSA 28.797; Assault with Intent to Rob MCL 750.88; MSA 28.283; and Possession of a Firearm during the Commission of a Felony MCL 750.227b; MSA 28.424(2). On March 14, 1977, defendant was sentenced to mandatory life in prison without the possibility of parole, and two years for Felony Firearm. Defendant also received concurrent sentences of 10-15 years for Armed Robbery, and Assault with Intent to Rob.

On March 1, 1981 the Michigan Court of Appeals set aside defendant's felony-firearm conviction and affirmed in all other respects defendant's convictions. On Application for Leave to Appeal in the Michigan Supreme

Court, the Court reversed the Court of Appeals decision and reinstated defendant's felony-firearm conviction and denied leave to appeal in all other respects. Defendant now submits a Motion for Relief from Judgment in this Court pursuant to MCR 6.500.

Defendant alleges constitutional violations and ineffective assistance of counsel. A defendant seeking relief from judgment has the burden of establishing entitlement to the relief requested. MCR 6.508(D). A court may not grant relief if the defendant alleges grounds for relief, other than jurisdictional defects, which could have been raised on appeal from the conviction and sentence or in a prior motion for relief from judgment, unless defendant demonstrates both good cause for the failure to previously raise the grounds, and actual prejudice from the alleged irregularities. MCR 6.508(D)(3)(b)(iii).

In defendant's first claim, he cites *People v Jenkins*, 395 Mich 440 (1975) as direct support for his 1<sup>st</sup> argument, *People v Jenkins* is no longer good case law and therefore defendant's first claim is without merit. Next, defendant argues that he was denied the effective assistance of appellate counsel when counsel failed to raise the above constitutional issue on appeal. However, even if appellate counsel failed to assert this argument, counsel could not be deemed ineffective since an attorney is not required to make meritless arguments. *People v Riley (After Remand)*, 468 Mich 135, 142; 659 NW2d 611 (2003).

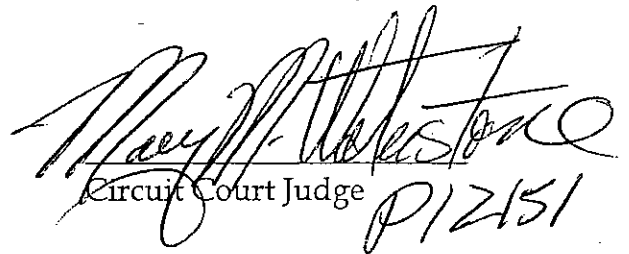
An examination of the trial record clearly reflects that defendant was afforded a fair trial and full appeal. Pursuant to *Strickland v. Washington*, 466 US

668; 104 SCt 2052; 80 Led2d 647 (1984), defendant has not demonstrated prejudice from appellate counsel's actions to show that, but for counsel's conduct, the outcome of defendant's appeal would have been different. This Court finds that defendant's claims do not meet the stringent standards of MCR 6.508.

Therefore, based on the foregoing, defendant's Motion for Relief from Judgment is hereby DENIED.

Dated:

October 6, 2000

  
Circuit Court Judge P12151



STATE OF MICHIGAN  
IN THE THIRD JUDICIAL CIRCUIT COURT  
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff,

Criminal Division  
Case No. 77-00128

v

Hon. Mary M. Waterstone

ALTON PELCHET  
Defendant.

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ORDER

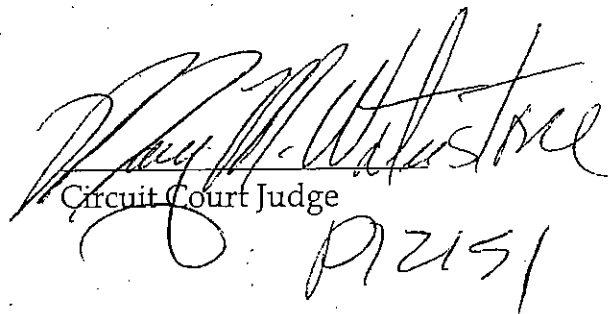
At a session of said court in the Frank  
Murphy Hall of Justice on OCT 06 2006

PRESENT: HON. \_\_\_\_\_  
Circuit Court Judge

In the above-entitled cause, for the reasons set forth in the foregoing, Opinion; IT

IS HEREBY ORDERED that defendant's Motion for Relief from Judgment is

DENIED.

  
Circuit Court Judge  
P2151

Document: People v. Pelichet, 2007 Mich. LEXIS 2719

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**People v. Pelichet, 2007 Mich. LEXIS 2719**

**Copy Citation**

Supreme Court of Michigan

October 29, 2007, Decided

SC: 134288

**Reporter**

**2007 Mich. LEXIS 2719** \* | 480 Mich. 922 | 740 N.W.2d 242

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v ALTON DAVID PELICHET, Defendant-Appellant.

**Prior History:** [\*1] COA: 274979. Wayne CC: 77-000128-01.

**Core Terms**

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order of the court

**Opinion**

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On order of the Court, the application for leave to appeal the May 21, 2007 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).

**Content Type:** Cases

**Terms:** 2007 mich lexis 2719

**Narrow By:** -None-

**Date and Time:** Mar 26, 2020 08:06:52 a.m. CDT