

APPENDIX-C

Michigan Supreme Court, Order denying application for leave to appeal dated; January 4, 2024, case No. 166168

Order

Michigan Supreme Court
Lansing, Michigan

January 4, 2024

Elizabeth T. Clement,
Chief Justice

166168

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

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 166168
COA: 366456
Eaton CC: 2021-020054-FH

GUSTAVO GALINDEZ,
Defendant-Appellant.

/

On order of the Court, the application for leave to appeal the August 16, 2023 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.



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.

January 4, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster".

Clerk

p1218

Appendix C

Court of Appeals, State of Michigan

ORDER

People of MI v Gustavo Galindez

Kathleen Jansen
Presiding Judge

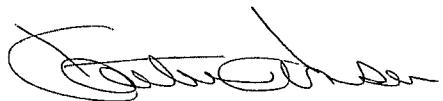
Docket No. 366456

Mark J. Cavanagh

LC No. 2021-020054-FH

Sima G. Patel
Judges

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



Presiding Judge



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

August 16, 2023

Date


Chief Clerk

APPENDIX-A

**Michigan Court of Appeals Opinion and Order denying application for leave to appeal
dated; August 16, 2023 Docket No. 366456.**

Court of Appeals, State of Michigan

ORDER

People of MI v Gustavo Galindez

Kathleen Jansen
Presiding Judge

Docket No. 366456

Mark J. Cavanagh

LC No. 2021-020054-FH

Sima G. Patel
Judges

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



Presiding Judge



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

August 16, 2023

Date



Chief Clerk

Appendix A

APPENDIX-B

Decision of the State Trial Court, Eaton County 2021-020024-FH

MICHIGAN DEPARTMENT OF CORRECTIONS
BASIC INFORMATION SHEET

CSX-117
Rev 09/01

Message - Emergency contact information updated 1/23/24. pc/slf

4.22A
Date Received
12/21/2022

Client Number B-807436	Client Name Galindez, Gustavo	Commit Status R-04	Commitment Reason New Commitment - Probationer w/ New Sentence (Rec Ctr. Only)	Curr Loc SLF
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FBI Number 412498KC0	SID Number 2573701M	SSN 137-86-8083	Birthdate 01/11/1989	Race W	Sex M	Height 5' 5"	Weight 200	Hair BLK	Eyes BRN	Complexion DRK	Build	Marital N
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Adult Jail Term 7	Adult Prison 2	Adult Escapes	Adult Probation 6	Sex Offense	Juv. Commits 0	Juv. Probation 1	Juv. Escapes
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Religion Q	Health Insurance Y	Military Code	Marks, Scars Tattoo, Arm, Left	More More
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Sentence Rec No	Docket Number	Sentencing County	Judges Name	Offense Date	Sentence Date	Jail Credit Days	Corrected Date
7	210000020054-FH	Eaton	Cunningham	02/09/21	12/08/22	0	12/08/22
6	210000020054-FH	Eaton	Cunningham	02/09/21	12/08/22	0	12/08/22
5	210000020054-FH	Eaton	Cunningham	02/09/21	12/08/22	221	05/01/22
4	210000020054-FH	Eaton	Cunningham	02/09/21	12/08/22	221	05/01/22
3	210000020054-FH	Eaton	Cunningham	02/09/21	12/08/22	221	05/01/22

Sentence Rec No	Terms	Offense Description	Compiled Law	Convict By	CTN Number
7	7y to 15y	Weapons-Felon (Hab Crim 4th Off.)	750.224F	N	232100059201
6	20y to 40y	Controlled Substance (Hab Crim 4th Off.)	333.74012B1A	N	232100059201
5	7y to 15y	Weapons-Concealed (Hab Crim 4th Off.)	750.227	N	232100059201
4	2y to 2y	Felony Firearms	750.227BA	N	232100059201
3	2y to 2y	Felony Firearms	750.227BA	N	232100059201

Sentence Rec No	Calendar Date	SGT/PMI/TIS/CAL	RGT/AMI/TIS/CAL	SGT/PMX	RGT/AMX
7		ABS	ABS	ABS	04/30/2039
6		04/30/2044	04/30/2044	04/30/2064	
5		ABS	ABS	ABS	04/30/2037
4		ABS	ABS	ABS	04/30/2039
3		04/30/2044	04/30/2044	04/30/2064	

PAROLE ELIGIBILITY DATE:

PREVIOUS SENTENCE INFORMATION

Client Prefix	Rec No	Sentence Date	Terms	Offense Description	SGT Max Date	RGT Max Date	Term/Disch Date
A	2	10/01/14	1y9m-5y	Weapons-Concealed, 750.227			04/12/17
A	1	10/01/14	1y9m-6y8m	UDA A, 750.413 (Hab Crim 2nd Off.)			04/12/17

IN CASE OF SERIOUS ILLNESS OR INJURY CONTACT

Relationship MOTHER	Name Mary Galindez	Address hampton Dr.
City & State Lansing MI		Telephone (517) 894-4544

01/24/2024 09:43:54

B-807436 Galindez, Gustavo

Page 1 of 2

DISTRIBUTION: White - Record Office, Canary - Central Office Records, Pink - Counselor, Goldenrod - Prisoner

Appendix B

APPENDIX -D

54A District Court Motion #22-000765-FH

STATE OF MICHIGAN 54A JUDICIAL DISTRICT 30L JUDICIAL CIRCUIT	MOTION/ORDER OF NOLLE PROSEQUI	CASE NO.: 2021001364 DISTRICT: 22-00155-FY-D54A CIRCUIT: 22-000766-FH-C30
District Court ORI: M1330075J 124 W. Michigan Ave., Lansing, MI 48933 517-483-4433 Police Report No. 33LLA 2161901202		Circuit Court ORI: M1330058J 313 W. Kalamazoo Lansing, MI 48901 517-483-6500
The State of Michigan THE PEOPLE OF _____		Defendant/Juvenile name, address, and telephone no: GUSTAVO GALINDEZ 807436 1012 N CEDAR ST Lansing, MI 48906
Juvenile In the matter of _____		CTN / TCN 33-21001364-01 / SID 2573791M DOB 1/1/1989

Count	CRIME	CHARGE CODE(S) MCL citation/PACC Code
001	POL OFFICER-FLEE-3RD DEGREE-PENAL CODE	750/479A3
002	WEAPONS - CARRYING CONCEALED	750/227
003	WEAPONS-FIREARMS POSSESSION BY FELON	750/224F

MOTION

Michael Cheltenham prosecuting official, moves for a nolle prosequi in this case for the following reason(s): in the interest of justice, the People move to dismiss this case.

1/17/23

852095

ORDER

IT IS ORDERED:

1. Motion for nolle prosequi is granted and the case is dismissed without prejudice.
 2. Motion for nolle prosequi is granted as to the following charge(s) which are dismissed without prejudice.

3. Motion for nolle prosequi is denied.
4. Defendant/Juvenile shall be immediately discharged from confinement in this case.
5. Bond is canceled and shall be returned after costs are deducted.
6. Bond is continued on the remaining charge(s).

JUDGE JAMES S. JAMO

Judge JAMES JAMO Bar no. P36850

If item 1 is checked, the clerk of the court shall advise the Michigan State Police Criminal Justice Information Center of the disposition as required under MCL 769.16a.

TO THE DEFENDANT: Your fingerprints and arrest card will be destroyed by the Michigan State Police within 60 days of the date of this order when permitted by MCL 28.243.

RECEIVED
MC 263 (3/08) MOTION/ORDER OF NOLLE PROSEQUI

JAN 20 2023 2023
Ingram County
Ingram County Prosecutor's Office
Prosecutor's Office

MCL 28.243, MCL767.29, MCL 769.16a, MCR 3.838(D)

Appendix D

Det #05

APPENDIX -E

55th District Court Motion #22-000491-FH

CTN: 33-22002962-01 AM CNP
Approved, SCAO

Original - Court
1st copy - Prosecutor
2nd copy - Defendant/Juvenile

3rd copy - Policy Agency
4th copy - Arresting agency

PROBATE JIS CODE: NOL

STATE OF MICHIGAN
55th JUDICIAL DISTRICT
30L JUDICIAL CIRCUIT

MOTION/ORDER
OF NOLLE PROSEQUI

CASE NO.: 2022002962
DISTRICT: 22-00953-FY-D55
CIRCUIT: 22-000491-FH-C30

District Court ORI: MI330085J
700 Buhl Drive, Mason, MI 48854 517-476-8426
Police Report No. 00M10 10-387-22

Circuit Court ORI: MI330055J
313 W. Kalamazoo Lansing, MI 48901 517-483-8500

The State of Michigan
THE PEOPLE OF _____

v
Defendant/Juvenile name, address, and telephone no.
GUSTAVO GALINDEZ 807436
2705 HAMPDEN DR
Lansing, MI 48911

CTN / TCN 33-22002962-01	SID 2573701M	DOB 11/11/1989
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Juvenile In the matter of _____

Count	CRIME	CHARGE CODE(S) MCL Citation/PACC Code
001	CS-DELIVER/MFG-METHAMPHETAMINE	333/74012B1-A
002	CONT. SUB-DELIVER/MFG LESS THAN 50 GR	333/74012A4

MOTION

Michael Cheltenham, prosecuting official, moves for a nolle prosequi in this case for the following reason(s): in the interest of justice, the People move to dismiss this case.

1/17/2023

Date

Michael Cheltenham (P57245)

ORDER

IT IS ORDERED:

1. Motion for nolle prosequi is granted and the case is dismissed without prejudice.
 2. Motion for nolle prosequi is granted as to the following charge(s) which are dismissed without prejudice.

3. Motion for nolle prosequi is denied.
 4. Defendant/Juvenile shall be immediately discharged from confinement in this case.
 5. Bond is canceled and shall be returned after costs are deducted.
 6. Bond is continued on the remaining charge(s).

JUDGE JAMES S. JAMO

Judge JAMES JAMO Bar no: P36850

If item 1 is checked, the clerk of the court shall advise the Michigan State Police Criminal Justice Information Center of the disposition as required under MCL769.16a.

TO THE DEFENDANT: Your fingerprints and arrest card will be destroyed by the Michigan State Police within 60 days of the date of this order when permitted by MCL 28.243.

MC 263 (3/09) MOTION/ORDER OF NOLLE PROSEQUI

MCL 28.243, MCL767.29, MCL 769.16a, MCR 3.938(D)

RECEIVED

JAN 20 2023

Ingham County
Prosecutor's Office

Detato

Appendix E

APPENDIX -F

Partial Trial Transcript December 8, 2022

Plea agreement.
STATE OF MICHIGAN
56TH JUDICIAL CIRCUIT COURT (EATON COUNTY)

PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 21-020054-FH

GUSTAVO GALINDEZ,

Defendant.

STATUS CONFERENCE

BEFORE THE HONORABLE JANICE K. CUNNINGHAM, CIRCUIT JUDGE
Charlotte, Michigan - Tuesday, June 28, 2022

APPEARANCES:

For the Plaintiff: MR. ADAM H. STRONG (P74650)
Senior Assistant Prosecuting Attorney
1045 Independence Boulevard
Charlotte, MI 48813
(517) 543-4801

For the Defendant: MS. AMANDA M. LOVE (P79201)
Assistant Public Defender
1033 Healthcare Drive
Charlotte, MI 48813
(517) 543-6634

Recorded and transcribed by: Ms. Kristine Cook, CER 8778
Certified Electronic Recorder
(517) 543-4307

Charlotte, Michigan

Tuesday, June 28, 2022 - 3:07 p.m.

THE COURT: People of the State of Michigan versus
Gustavo Galindez, file 21-54-FH.

Mr. Strong is here on behalf of the People.

Ms. Love is here with the Defendant.

Raise your right hand, sir.

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God, under penalty of perjury?

THE DEFENDANT: Yes, ma'am.

THE COURT: Okay.

Today is the date and time for the pretrial. This trial is scheduled a week from Monday, or July 11, 2022. I received an e-mail this morning from Ms. Love indicating that a resolution had, in fact, been reached and Mr. Strong concurred. And they have told me that the Defendant would be pleading no contest. The reason for the no contest plea would be intoxication and the factual basis that he would not be able to give.

The sentencing agreement is for nine years with the Michigan Department of Corrections. Seven years on count one, plus two years on count two, which is the felony firearm. That would be the minimum. The maximum, meaning the statutory maximum set by the Court, and I would set that at sentencing.

1 And then all the remaining counts will be eaten up by those
2 nine years the parties have agreed to.

3 There would be no charges against the Defendant
4 regarding fentanyl. All sentences would run concurrent with
5 the Ingham County case 22-0953-FY. And the Defendant could
6 remain out on bond until we came back for sentencing.

7 Is that your understanding of the agreement, Mr.
8 Strong?

9 MR. STRONG: It is, Your Honor, and just the last
10 clarification is that it is pleading no contest to all counts
11 as a habitual offender fourth within in the Information.

12 THE COURT: Thank you.

13 And is that your understanding, Ms. Love?

14 MS. LOVE: It is.

15 THE COURT: And most importantly, Mr. Galindez, is
16 that your understanding?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Have we had him sign his Advice of
19 Rights? We have, of course. Ms. Love is on it.

20 Now sir, you are charged in count one with the
21 delivery and manufacturing of methamphetamine which is a 20
22 year felony and/or \$25,000 fine. You would have license
23 sanctions if you get more than one year in prison.

24 Count two, felony firearm, that's a two year felony,
25 served consecutive with and preceding any term of imprisonment

1 THE COURT: -- they've been bringing some stuff up
2 for me to sign. Sir, I need you to go downstairs, in the
3 basement, go to the MDOC office. They're going to give you a
4 packet for you to fill out. Give them information and get it
5 back to them as soon as practical so they can prepare the
6 presentence report.

7 THE DEFENDANT: Yes, ma'am.

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And then I will see you back here on
14 August 11th at 8:30. Okay?

15 THE DEFENDANT: Yes, ma'am. Thank you.

16 THE COURT: Anything else, Mr. Strong?

23 THE COURT: Yeah.

24 MR. STRONG: -- between now and sentencing the Judge
25 can exceed the sentencing agreement between us of nine years

1 and you don't have the right to withdraw your plea. So,
2 misconduct is very broadly defined. It's -- can be anything
3 like absconding, not complying with the PSI, new criminal
4 charges. Anything like that. So, I just want to make sure
5 that that's sure so six weeks, August 11th, no misconduct.

6 THE DEFENDANT: Yes, sir.

7 MR. STRONG: Otherwise the Judge can exceed the
8 plea.

9 THE DEFENDANT: Yes, sir.

10 MR. STRONG: Thank you, Your Honor.

11 THE DEFENDANT: Thank you.

12 THE COURT: Very good, right?

13 THE DEFENDANT: Thank you.

14 THE COURT: Okay, thank you.

15 That's all for the record.

16 (At 3:33 p.m. - proceedings concluded)

17

18

19

20

21

22

23

24

25

APPENDIX – G

Partial Transcript June 6, 2022

Sentencing
STATE OF MICHIGAN
56TH JUDICIAL CIRCUIT COURT (EATON COUNTY)

PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 21-020054-FH

GUSTAVO GALINDEZ,

Defendant.

STATUS CONFERENCE

BEFORE THE HONORABLE JANICE K. CUNNINGHAM, CIRCUIT JUDGE
Charlotte, Michigan - Thursday, December 8, 2022

APPEARANCES:

For the Plaintiff: MR. ADAM H. STRONG (P74650)
Senior Assistant Prosecuting Attorney
1045 Independence Boulevard
Charlotte, MI 48813
(517) 543-4801

For the Defendant: MS. AMANDA M. LOVE (P79201)
Assistant Public Defender
1033 Healthcare Drive
Charlotte, MI 48813
(517) 543-6634

Recorded and transcribed by: Ms. Kristine Cook, CER 8778
Certified Electronic Recorder
(517) 543-4307

1 allow him to withdraw his plea if he does commit misconduct.
2 The number one thing you got to do is show back up for
3 sentencing. The Defendant didn't do that. The only reason
4 he's here today is because he was arrested by the Fugitive
5 Task Force in Ingham County. And when he was arrested, as we
6 see from the case report, it's the same thing that his entire
7 criminal history is. Guns, drugs and stolen vehicles, stolen
8 property.

9 If this was a possession case, I wouldn't be asking
10 for this. If this was a retail fraud even, wouldn't be asking
11 for this. This case involves the Defendant having guns,
12 fleeing the police, sorry, him getting arrested and being here
13 today, involves having guns, having drugs, fleeing the police,
14 running a chop shop. It made the news. Why Ingham County
15 hasn't decided to issues charges for that, I can only imagine
16 that they're waiting to see what his other two cases are going
17 to resolve with as well as what happens here. Because while
18 he was on bond for this, before his plea, he also had the very
19 last offense in his -- in the PSI which is being charged with
20 the delivery/manufacture of methamphetamine,
21 delivery/manufacture of narcotic or cocaine, less than 50
22 grams. Dealing drugs, guns, running from the police.

23 The Defendant is a danger to society. We gave him
24 the benefit of a plea agreement. He threw that in our face.
25 He threw that in the Court's face. And went right back to the

1 certainly showing it in a very odd way because you are
2 continuing criminal behavior after you already know you're
3 going to prison for nine years and you do that.

4 The, the reality is, my responsibility has to be
5 also to look at protecting society from individuals who run
6 from the law, who run from law enforcement. That's scary.
7 Individuals that have guns and drugs and commit new acts while
8 they're waiting to be sentenced on other criminal activity.
9 So, I appreciate the advocacy of your attorney. And I don't
10 doubt right now your emotions are genuine and your comments
11 are genuine because you're looking at going away to prison for
12 a long time. But when you're not in the courtroom the
13 decisions you make and your actions are contrary to what you
14 state to me when you're standing there being nervous and
15 scared.

16 So, I have to look at the evidence in front of me,
17 look at your history, and say I don't know that there's a
18 strong possibility of rehabilitation. I also know that part
19 of the thing that I have to look at is deterrence in society.
20 To say to people, if you keep doing the same thing over and
21 over, that, that's dangerous. Dangerous to the public.
22 There's going to be a consequence to that. That has to be the
23 message that is sent. Right?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And the other thing that I have to do is

1 to say, and it's hard, to say is society -- how can we protect
2 society from the decisions that you keep making. And
3 obviously probation and terms and conditions don't work. And
4 at some point, I am left with the sad conclusion that the way
5 that I protect society is by placing you behind bars. And
6 that's where we're at.

7 And the Legislature has come up with guidelines and
8 they say here are guidelines that we think are appropriate for
9 someone who has repeated criminal activity and that criminal
10 activity, as said by Mr. Strong, we're not talking about
11 somebody just having person use and possession of drugs that
12 they're doing themselves. The things that you have done are
13 scary and they're dangerous. And the things that are in this
14 updated report that you did, while you were out, knowing you
15 were going to go to prison so you don't come back. And then
16 you do these types of things, or at least it's alleged you
17 did, I do know one fact, you wouldn't be here if you weren't
18 arrested.

19 I think the Prosecutor's request, sadly, is
20 reasonable. It is the sentence of this Court, on count one,
21 that the Defendant will be sentenced to 20 years -- what is
22 the rest of it, Mr. Strong?

23 MR. STRONG: Twenty years -- if the Court did 20 to
24 40 that would be appropriate.

25 THE COURT: Twenty to 40 years.

PRESENTENCE CASE REPORT

was observed leaving a residence the fugitive team was watching in a dark SUV, and when the defendant returned he had a trailer. The SUV and motorcycle were both determined to be stolen. Several additional vehicles were located and determined to have been reported stolen.

A police report was taken on 8/3/2022 by the Ingham County Sheriff's Department indicating the defendant entered a victim's shed and stole property. These allegations occurred in Delhi Township and no criminal case could be located in the 35th District Court regarding this report.

Regarding jail credit, the defendant is still pending arraignment on his Court issued bench warrant and jail credit should remain as listed in the initial PSI. The MDOC is also maintaining the original recommendation as listed in the PSI.

Supervisor Reviewed Clinton Auer 11/28/2022

LOV

Cue

VV