

24-7235

No. _____

ORIGINAL

SUPREME COURT OF THE UNITED STATES

FILED
MAY 02 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Timmy Orlando Collier — PETITIONER
(Your Name)

vs.

Fredeane Artis, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Michigan Supreme Court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Timmy Orlando Collier
(Your Name)

3225 John Conley Drive
(Address)

LaFer, Michigan 48446
(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED
MAY 16 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

STATEMENT OF QUESTION(S) PRESENTED

DID THE DISTRICT COURT COMMIT A RADICAL JURISDICTIONAL DEFECT BY NOT FOLLOWING MICHIGAN'S LAW AND STANDARDS SET FORTH BY MCL's, MCR's, AND FOURTH, FIFTH AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION?

DID THE COURT OF APPEALS BECOME AN ADVOCATE FOR THE PROSECUTOR'S OFFICE WHEN THE PROSECUTOR FAILED TO FILE A RESPONSE TO THE ORDER GIVEN BY THE COURT OF APPEALS, THUS VIOLATING APPELLANT'S RIGHTS TO DUE PROCESS UNDER THE CONSTITUTION AND EQUAL PROTECTION OF LAW.

DID MAGISTRATE JUDGE AND PROSECUTOR VIOLATE APPELLANT'S FOURTH AMENDMENT CONSTITUTIONAL RIGHT AND EQUAL PROTECTION OF THE LAW BY SECURING AN ARREST WARRANT WITH "BARE-BONE" COMPLAINT?

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:

Michigan Supreme Court
Michigan Court of Appeals
Oakland County Sixth Circuit Court

RELATED CASES

People v. Washington, 321 Mich. App. 276, 908 N.W.2d 924, 2017 Mich. App. LEXIS 1431. Decided July 13, 2017
People v. Washington, 2021 Mich. LEXIS 1314, 2021 WL 320310. Decided July 29, 2021

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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[] is unpublished.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 Michigan Court of Appeals court appears at Appendix "B" 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 March 28th, 2025. A copy of that decision appears at Appendix "A".

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).

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STATEMENT OF THE CASE

See attached Pages

STATEMENT OF THE CASE

The Michigan Courts, (Oakland County Circuit Court, Michigan Court of Appeals, the Michigan Supreme Court) base their denial of petitioner's Writ of Habeas Corpus on petitioner raising a successive motion. The Michigan Appellate Courts totally ignore the cases of People v. Washington, 321 Mich. App. 276, 908 NW 2d 924, 2017 Mich. App. LEXIS 1431: and affirmed in Washington, 2021 Mich. LEXIS 1314; 2021 WL 320310, which state: a motion for relief from judgment under MCR 6.502 is merely a "Procedural Vehicle," and our determination that relief from judgment was unavailable to defendant does not end our inquiry. See Clement, 254 Mich. App. at 394 (explaining that a court is bound to notice the limits of its authority and to recognize *sua sponte* it's lack of jurisdiction. Regardless of whether the issue was raised in an improperly supported motion, the trial court clearly had the power to consider the jurisdictional issue brought to its attention.

Petitioner's pleadings were clearly titled "Writ of Habeas Corpus," Petitioner cites United States v. Miller, 197 F.3d 644, in that case, it states that the Court of Appeals noted, upon review, that without the benefit of a two-part Adams' notice requirement, appellant had neither the opportunity to "agree" or "disagree" that his pro se motions be recharacterized as a single §2255 motion nor the opportunity to withdraw the motion rather than have it recharacterized. Because the district court did not give appellant notification of this nature, the court of appeals set aside the lower court's decision to recharacterize appellant's two post-conviction motions, vacated it's order of dismissal, and remanded. This court should remand this case as the court did in Miller, the court of appeals gave the prosecutor 28 days to file an answer, clearly showing that the court at this point acknowledged Petitioner Colier's pleadings as a writ of habeas corpus, or, violating MCR 6.502 subrule (G)(2) by not returning to the appellant without filing or give notice that his pleadings were being recharacterized.

Washington plainly and clearly states that a motion for relief from judgment under MCR 6.502 is merely a "procedural vehicle," showing that the prosecution has failed to address the substantive issue in defendant's motion for relief from judgment, which, while brought pursuant to an inapplicable court rule, nevertheless, constitutes an important and reviewable claim of error.

Because district court lacked an affidavit, they lacked jurisdiction to hold a probable cause hearing, failure to obtain affidavit mandates that the petitioner be discharged.

While section MCL 600.4310(3) prohibits habeas corpus from serving as a substitute for appeal to review merits of a criminal conviction, Habeas Corpus is available where the convicting court was radically without jurisdiction to try defendant for crime in question so that the conviction is absolutely void. People v. Price, 23 Mich. App. 663, 179 N.W. 2d 177, 1970 Mich. App. LEXIS 1907 (Mich. Ct. App. 1970). MCL 600.4310(3) gives petitioner the right to review and ascertain if the convicting court was "radically" without jurisdiction to try defendant for crime in question.

Petitioner contends that the reason for the prosecutor failing to respond to the petitioner's pleadings is due solely to the crux(crucial point) of his radical jurisdictional defect issue in both cases, the West Bloomfield Police Department's case hinged upon the 9-page statement given by Carol Giles, after she gave this statement, officer's asked Carol Giles if she could pass a polygraph to the statement she just gave, her response was "no," her statement was not credible nor her information reliable, this is evidenced by the fact that officers could not raise their right hand and swear under oath that the information they received was true and accurate to the best of their knowledge, information and belief, and in this lack of information lies the radical jurisdictional defect.

The Supreme Court of Kansas was presented with an almost identical case and reasoned that the statute therein involved was mandatory and not merely directory, and that therefore the failure of the police officer to formally "swear" rendered the proceedings invalid. Wilcox v. Billings, 200 Kan. 654; 438 P2d 108 (1965). According to the rules and language spoken of in Wilcox v. Billings, the proceedings and outcome of the trial must be rendered invalid.

Petitioner asserts that his Fourth and Sixth Amendment Right to Due Process were deliberately violated by the Oakland County Prosecutors by their failing to perform their clear legal duty of filing the proper criminal affidavit, complaint and arrest warrant and failure to hold a proper probable cause hearing. Therefore no jurisdiction is attached to any court to try, convict, and imprison petitioner. Muskrat v. U.S., 346; 31 Ct. 250; 55 L.ED 246 (1911). In both of Petitioner's cases, the prosecutor failed to file

a affidavit, making these cases the product of "Unauthorized Processes." Habeas relief is warranted in these cases because this (or any) court is without jurisdiction, as the current confinement of petitioner is derived from an unauthorized process.

Consequently, Habeas Corpus relief is warranted in this instant case to cure this travesty of justice.

Petitioner contends that where the trial court was divested of it's lawful jurisdiction, it can only order dismissal of petitioner's case, according to In re Hague, 412 Mich. 532, 544; 315 N.W. 2d 524(1986).

The travesty of justice does not stop here, On July 11,2024, the Michigan Court of Appeals gave the Oakland County Prosecutor's Office 28 days to file an answer to petitioner's application, the Oakland County Prosecutor's Office never responded, the petitioner's pleadings were denied alleging them to be a successive motion. On January 30th, 2025, the Michigan Supreme Court gave the Oakland County Prosecutor's Office until February 24th, 2025 to file an answer to the application, the Oakland County Prosecutor's Office never responded, On March 28th, 2025, the Michigan Supreme Court denied petitioner's writ of habeas corpus citing MCR 6.502(G) which is denial of successive motion. In both courts, the prosecutor did not file a brief opposing petitioner's claim on appeal. As stated in People v. Smith, 190 Mich. App. 352, (page 3 of 4, section II), it states: "As a second and alternative basis for reversal, we hold that the failure of the prosecutor to file a brief or otherwise defend constitutes a confession of error. We however, do not establish a per se rule that such a failure constitutes a confession of error in all cases. Rather, we hold that this court, in the exercise of it's discretion, may deem the failure of an appellee to file a brief or otherwise defend an appeal to be a confession of error. People v. Hammond, 187 Mich. App. 105, 107; 446 NW 2d 335(1991).

As stated in People v. Walma, 26 Mich. App 326, 327-328; 182 NW2d 110(1970):

Though provided ample opportunity, the prosecutor failed to file any written or other objection to the appeal, any motion to affirm, or any brief in this case. Further, though noticed of the time and place for oral argument before this court, no one from the Allegan Prosecutor's office appeared to orally argue or even notified the court that it would or would not argue the same.

In view of the lack of any opposition whatsoever by the Allegan County Prosecutor we are led to the inevitable conclusion that the prosecutor, if he does not by such total inaction or indifference agree with the defendant that reversible error was committed, at least does not object to reversal and remand for a new trial which we accordingly do, particularly in view of the question raised.

Later in People v. Hatfield, 46 Mich. App. 149, 150-151; 207 NW 2d 485(1973), we noted that this Court is ill suited to serve as an advocate for a prosecutor who chooses not to defend an appeal.

On February 26th, 2025, Petitioner filed a Motion to Object and Dismiss with Prejudice to try and stop the Court from rendering a decision in violation of the cases, compiled laws cited in this pleading. Petitioner's Motion to Object and Dismiss with Prejudice is attached to this pleading and listed as Appendix "D."

Despite the fact that this Court in "Walma" placed the prosecutors on notice that their failure to respond to the defendant's allegations would be treated as admissions that such allegations were true, this Court has continued to be plagued with criminal appeals in which the prosecutor has failed to respond. This, in turn, has placed this Court in the uncomfortable position of having to first act as the prosecutor's advocate, and then render a decision on the merits.

Also see People v. Jackson, 178 Mich. App. 62; 443 NW 2d 423(1989), it states: While we sympathize with the prosecutor's predicament of case overload and inadequate staffing, Our Court suffers from a similar plight, which makes it impossible for us to perform the advocacy duties of the prosecutor's office. Reversed and Remanded for a new trial before a different judge.

Petitioner Collier's Writ of Habeas Corpus is not complex, in fact, it's very simple to render a decision in, Petitioner Collier contends that the Oakland County Prosecutors Office started the judicial process against him using an "Unauthorized, ""Illegal"Process, Petitioner Collier also contends that the Oakland County Prosecutor's Office "never" had probable cause established to arrest him prior to his arrest. Oakland County Prosecutor's Office can not show how they got credible and reliable information out of Carol Giles' 9-page statement that she gave to officers; officers asked Carol Giles if she could pass a polygraph to the statement she just gave and her

response was "no."

The Radical Jurisdictional Defect occurred in this case when Oakland County Prosecutors failed to have officers "swear," under oath to the information contained in the affidavit because there was no affidavit filed in petitioner's case(s). Petitioner has cited MCR's, MCL's and Statutes pertaining to the illegal process used by the Oakland County Prosecutors Office, showing that they used an "Unauthorized Process." Petitioner again cites People v. Washington, 321 Mich. App. 276, 908 NW 2d 924, 2017 Mich. App. LEXIS 1431, affirmed in Washington, 2021 Mich. LEXIS 1314; 2021 WL 320310., due to that case stating that the successive motion was a "Procedural Vehicle" only used to get the "radical defect" issue before the court, because the court was "bound" to address this issue, and petitioner cites People v. Smith, 190 Mich. App. 352, stating that when the Court gives the prosecutor an order to respond and they don't, that it is considered a confession of error, and that caselaw suggest that reverse and remand is appropriate to cure the travesty of justice, and doing so in Petitioner Collier's case would set new precedence pertaining to this issue as well as benefit the similarly situated who have their case come before the court raising the same issue as Petitioner Collier's case(s).

REASONS FOR GRANTING THE PETITION

See attached pages

REASON FOR GRANTING
THE PETITION

DID THE DISTRICT COURT COMMIT A RADICAL
JURISDICTIONAL DEFECT BY NOT FOLLOWING
MICHIGAN'S LAW AND STANDARDS SET FORTH BY
MCL'S, MCR'S, AND FOURTH, FIFTH AND
FOURTEENTH AMENDMENT TO THE UNITED STATES
CONSTITUTION?

Standard of Review: This Court reviews for an abuse of discretion a trial court's decision on a motion for relief from judgment. People v. Walker(On Remand), 328 Mich. App. 429, 436; 938 NW 2d 31 (2019). The trial court abuses its discretion when it makes an error of law or when its decision falls outside the range of reasonable and principled outcomes. People v. Duncan, 494 Mich. 713, 722-723; 835 NW 2d 399 (2013). This court reviews de novo the trial court's interpretation of court rules. People v. Williams, 483 Mich. 226, 231; 769 NW 2d 605 (2009).

Motions for relief from judgment are governed by MCR 6.500 et seq., MCR 6.502(G)(1) provides, in part: Except as provided in subrule (G)(2), 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 motion for relief from judgment.

Because defendant was acting in "Propria persona." he was entitled to an even greater degree of lenity and generosity in construing his pleadings than a lawyer would have been. Estelle v. Gamble, 429 US 97, 106; 97 S.Ct. 285; 50 L Ed 2d (1976).

In Petitioner Collier's case, the writ of habeas corpus was assigned to the filing on 7-11-24, the District Commissioner, Brighid Burns sent notice that the Petitioner was initiating an original action and gave the Oakland County Prosecutor 28 days to file an answer, to which the prosecutor never responded.

The Courts never returned to the petitioner the writ of habeas corpus without filing which is in conformity with rules and language spoken of in MCR 6.502(G)(2), all courts filed and denied the pleadings citing it as a successive motion violation, totally ignoring clearly established court rules

[MCR 6.502(D)], nor did the courts send petitioner appropriate form like court rules state. While section MCL 600.4310(3) prohibits habeas corpus from serving as a substitute for appeal to review merits of a criminal conviction, Habeas Corpus is available where the convicting court was radically without jurisdiction to try the defendant for crime in question so that the conviction is absolutely void. People v. Price, 23 Mich. App. 663, 179 N.W. 2d 177, 1970 Mich. App. LEXIS 1907(Mich. Ct. App. 1970). MCL 600.4310(3) gives petitioner the right to review and ascertain if the convicting court was "radically" without jurisdiction to try defendant for crime in question.

As stated in People v. Washington, 321 Mich. App. 276, 908 NW 2d 924, 2017 Mich. App. LEXIS 1431, and affirmed in Washington, 2021 Mich. LEXIS 1314, 2021 WL 320310, a motion for relief from judgment under MCR 6.502 is merely procedural vehicle, and our determination that relief from judgment was unavailable to defendant does not end our inquiry. See also Clement, 254 Mich. App. at 394 (explaining that a court is bound to notice the limits of its authority and to recognize sua sponte its lack of jurisdiction. Regardless of whether the issue was raised in an improperly supported motion, the trial court clearly had the power to consider the jurisdictional issue brought to its attention.

Petitioners pleadings were clearly titled "Writ of Habeas Corpus." Petitioner cites United States v. Miller, 197 F.3d 644, in that case, it states that the Court of Appeals noted, upon review, that without the benefit of a two-part Adams' notice requirement, petitioner had neither the opportunity to "agree" or "disagree" that his pro se motions be recharacterized as a single §2255 motion nor the opportunity to withdraw the motion rather than have it so recharacterized. Because the district court

did not give appellant notification of this nature, the court of appeals set aside the lower court's decision to recharacterize appellant's two post-conviction motions, vacated its order of dismissal, and remanded. This Court should remand in this case as the court did in Miller, the court gave the prosecutor a set time to file an answer, clearly showing that the court at this point acknowledged petitioner Collier's pleadings as a writ of habeas corpus, or, violating MCR 6.502 subrule (G)(2) by not returning to the petitioner without filing or give notice that his pleadings were being recharacterized.

The Courts never respected or adhered to the express legal requirement to follow clearly established law, statutes and court rules, Petitioner Collier's pleadings were filed in the Courts as a writ of habeas corpus, but denied as a successive motion when Washington plainly and clearly states that a motion for relief from judgment under MCR 6.502 is merely a procedural vehicle shows that the prosecution has failed to address the substantive issue in defendant's motion for relief from judgment, which, while brought pursuant to an inapplicable court rule, nevertheless constitutes an important and reviewable claim of error.

Pursuant to MCL 600.4310, an action for habeas corpus to inquire into the cause of detention may not be brought by persons convicted upon legal process by a court of competent jurisdiction. If a petitioner is confined under legal criminal process, the proceeding must be dismissed, Petitioner Collier, however, is confined under an "unauthorized process." In re Stone, 295 Mich. 207, 209; 294 NW 156(1940). There must be a "radical defect" in the sentencing court's jurisdiction to justify issuance of a writ. Hinton v. Parole Bd., 148 Mich. App. 235, 244-245; 383 NW 2d 626(1986).

Habeas proceedings under MCL 600.4310(3) was an appropriate mechanism

to assert a radical defect in the circuit court's jurisdiction...Moses v. Dep't of Corr., 274 Mich. App. Lexis 571 (Mich. Ct. App. 2007).

The Petitioner's incarceration is illegal because the trial court and prosecution violated MCLS § 600.4310(3) when it failed to issue an affidavit to support a complaint and warrant on the petitioner before the arraignment, which makes this case "A Radical Jurisdictional Defect."

Because district court lacked an affidavit, they lacked jurisdiction to hold a probable cause hearing, failure to obtain affidavit mandates that the petitioner be discharged.

The Supreme Court of Kansas was presented with an almost identical case and reasoned that the statute therein involved was mandatory and not merely directory, and that therefore the failure of the police officer to formally "swear" rendered the proceedings invalid. Wilcox v. Billings, 200 Kan. 654; 438 P2d 108 (1965). According to the rules and language spoken of in Wilcox v. Billings, the proceedings and outcome of the trial must be rendered invalid.

Petitioner asserts that his Fourth and Sixth Amendment Right to Due Process were deliberately violated by Oakland County Prosecutors by their failure to perform their clear legal duty of filing the proper criminal affidavit, complaint and arrest warrant and failure to hold a proper probable cause hearing. Therefore, no jurisdiction is attached to any court to try, convict, and imprison petitioner. Muskrat v. U.S., 346; 31 Ct. 250; 55 L. ED 246(1911). In both of petitioner's cases, the prosecutor failed to file a affidavit, making these cases the product of "Unauthorized Processes." Habeas relief is warranted in these cases because this (or any) court is without jurisdiction, as the current confinement of petitioner is derived from an unauthorized process.

Consequently, Habeas Corpus relief is warranted in this instant case to cure this travesty of justice.

Petitioner contends that where the trial court was divested of it's lawful jurisdiction, it can only order dismissal of petitioner's case, according to In re Hague, 412 Mich. 532, 544; 315 N.W. 2d 524(1986).

The court must read the affidavit of probable cause submitted in support of the search warrant in it's entirety and "in a commonsense and nontechnical manner." United States v. Whitner, 219 F.3d 289, 296 (3d Cir. 2000)(citing United States v. Conley, 4 F.3d 1200, 1206(3d Cir. 1993). "In making this determination, the Court confines itself to the facts that were before the magistrate judge, i.e., the affidavit, and [does] not consider information from other portions of the record." I.d.(quoting Jones, 994 F.2d at 1055).

In Petitioner Collier's case, there was no affidavit filed with the court to support the complaint and warrant, the complaint and warrant do not state any alleged acts of the crime committed by petitioner in this case.

For the reasons stated and caselaw and court rules cited herein, this case should be reversed and remanded for further proceedings, at which time the lower court vacate and dismiss the conviction with prejudice.

The Trial Court was bound to recognize its jurisdiction or lack thereof, which means that they were required to make a determination whether an affidavit was provided at the time of petitioner's arrest as an express legal requirement and as a corollary, denied petitioner subject-matter jurisdiction over the claim and whether or not it denied district court subject-matter jurisdiction and authority to bind petitioner over to circuit court.

DID THE COURT OF APPEALS BECOME AN ADVOCATE FOR THE PROSECUTOR'S OFFICE WHEN THE PROSECUTOR FAILED TO FILE A RESPONSE TO THE ORDER GIVEN BY THE COURT OF APPEALS, THUS VIOLATING APPELLANT'S RIGHTS TO DUE PROCESS UNDER THE CONSTITUTION AND EQUAL PROTECTION OF LAW.

Standard of Review: A question of law is reviewed *de novo*. *De novo* review applies to questions of subject-matter jurisdiction. *De novo* requires that we consider anew, as if no decision had been made previously. THE PROPER INTERPRETATION AND APPLICATION OF COURT RULES IS A QUESTION OF LAW REVIEWED *DE NOVO*.

In Petitioner Collier's case, the Courts gave orders for the prosecutor to respond to the petitioner's writ of *habeas corpus*, the Oakland County Prosecutor's office never responded.

As stated in People v. Smith, 190 Mich. App. 352, p. 3 of 4, section II, As a second and alternative basis for reversal, we hold that the failure of the prosecutor to file a brief or otherwise defend constitutes a confession of error. We, however, do not establish a *per se* rule that such failure constitutes a failure in all cases. Rather, we hold that this court, in the exercise of its discretion, may deem the failure of an appellee to file a brief or otherwise defend an appeal to be a confession of error. People v. Hammond, 187 Mich. App. 105, 107; 466 NW 2d 335(1991).

Though provided ample opportunity, the prosecutor failed to file any written or other objection to the appeal, any motion to affirm, or any brief in this case. Further, though noticed of the time and place for oral argument before this court, no one from the Allegan Prosecutor's office appeared to orally argue or even notified the Court that it would or would not argue the same.

In view of the lack of any opposition whatsoever by the Allegan County Prosecutor, we are led to the inevitable conclusion that the prosecutor,

if he does not by such total inaction or indifference agree with the defendant that reversible error was committed, at least does not object to reversal and remand for a new trial which we accordingly do, particularly in view of the question raised.

In Petitioner Collier's case, the Courts are ill suited to serve as an advocate for a prosecutor who chooses not to defend an appeal, in the present case, the Courts were placed in the uncomfortable position of having to first act as the prosecutor's advocate, and then render a decision on the merits. When the court ordered the prosecutor to file a response, the prosecutor "must" comply with the order from the court.

On February 26th, 2025, Petitioner filed a Motion to Object and Dismiss With Prejudice to try and stop the Court from rendering a decision in violation of the cases, compiled laws et., cited in this pleading. Petitioner's Motion to Object and Dismiss With Prejudice is attached in this pleading and listed as Appendix "D."

Despite the fact that this Court in "Walma" placed the prosecutors on notice that their failure to respond to the defendant's allegations would be treated as admissions that such allegations were true, this Court has continued to be plagued with criminal appeals in which the prosecutor has failed to respond. This, in turn, has placed this Court in the uncomfortable position of having to first act as the prosecutor's advocate, and then render a decision on the merits.

Also see People v. Jackson, 178 Mich. App. 62; 443 NW 2d 423 (1989), it states; While we sympathize with the prosecutor's predicament of case overload and inadequate staffing, Our Court suffers from a similar plight, which makes it impossible for us to perform the advocacy duties of the prosecutor's office. Reversed and Remanded for a new trial before a different judge.

DID MAGISTRATE JUDGE AND PROSECUTOR
VIOLATE PETITIONER'S FOURTH AMENDMENT
CONSTITUTIONAL RIGHT AND EQUAL
PROTECTION OF THE LAW BY SECURING AN ARREST
WARRANT WITH "BARE-BONE" COMPLAINT?

Standard of Review: A question of law is reviewed de novo. De novo review applies to questions of subject-matter jurisdiction. De novo review requires that we consider a matter anew, as if no decision had been made previously. THE PROPER INTERPRETATION AND APPLICATION OF COURT RULES IS A QUESTION OF LAW REVIEWED DE NOVO.

In Petitioner Collier's case, Lt. Tim Sheridan alleged that petitioner Collier was arrested solely on a 9-page statement given by Carol Giles, what officers fail to mention is that after Carol Giles gave this 9-page statement, she was asked if she could pass a polygraph test to the statement she just gave, at which time Carol Giles replied "no."

Nowhere in the record does it state to a probable cause hearing being held prior to the arrest of petitioner Collier, the prosecutor used a complaint that was not supported by an affidavit, reciting only the statutory language without the specific facts concerning the alleged crime. The process used by the prosecutor completely abandons the independent probable cause determination by a judicial officer.

Police Officers who secure arrest warrants from deputy clerks and magistrates, supported only with "bare-bone" complaints insufficient to support an independent probable cause determination violate the Fourth Amendment.

The deputy clerks could not independently find probable cause from the information submitted in the complaint unaccompanied by an affidavit.

The court must read the affidavit of probable cause submitted in support of the search warrant in it's entirety and "in a commonsense and nontechnical manner." United States v. Whitner, 219 F.3d 289, 296 (3d Cir. 2000)(citing

United States v. Conley, 4 F.3d 1200, 1206(3d Cir. 1993). "In making this determination, the Court confines itself to the facts that were before the magistrate judge i.e., the affidavit, and [does] not consider information from other portions of the record." I.d.(quoting Jones, 994 F.2d at 1055). In Petitioner Collier's case, there was no affidavit filed with the court to support the complaint and warrant, the complaint and warrant do not state any alleged acts of the crime committed by petitioner in this case. Magistrate and Prosecutor also violate MCR 6.102 Subrule (B) by not preserving records from the alleged probable cause hearing before petitioner's arrest in case it is later challenged on appeal.

For the information contained herein, Petitioner prays that this Court find that petitioner has shown entitlement to relief and grant the relief requested.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tom Callier

Date: 5-1-25