

People v. Pirkel

Supreme Court of Michigan

October 24, 2025, Decided

SC: 168410

Reporter

2025 Mich. LEXIS 1945 *; 26 N.W.3d 418; 2025 LX 449455

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v DANIEL MARTIN PIRKEL, Defendant-Appellant.

Prior History: [*1] COA: 372107. St. Joseph CC: 07-014669-FC.

People v. Pirkel, 2025 Mich. App. LEXIS 1805 (Mar. 7, 2025)

Judges: Megan K. Cavanagh, Chief Justice. Brian K. Zahra, Richard H. Bernstein, Elizabeth M. Welch, Kyra H. Bolden, Kimberly A. Thomas, Noah P. Hood, Justices.

Opinion

Order

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the March 7, 2025 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).

End of Document

Exhibit 15

Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V DANIEL MARTIN PIRKEL

Docket No. 372107

LC No. 07-014669-FC

Allie Greenleaf Maldonado
Presiding Judge

Michael J. Riordan

Thomas C. Cameron
Judges

The motion to waive fees is GRANTED for this case only.

The motion to amend the application is GRANTED.

The motion to appoint counsel is DENIED.

The delayed application for leave to appeal is DENIED because defendant has failed to establish that the trial court erred in denying the motion for relief from judgment.



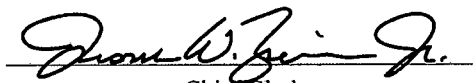
Presiding Judge



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

March 7, 2025

Date


Chief Clerk

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ST. JOSEPH

PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff,

v.

Daniel Martin Pirkel,
Defendant.

FILED

APR 01 2024

Lindsay Oswald
St. Joseph County Clerk

File No. 07-014669-FC
Hon. Paul E Stutesman

**ORDER DENYING
DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT**

Defendant's Motion is brought under SubChapter 6.500 of the Michigan Court Rules. Specifically, the procedure for deciding Motions for Relief From Judgment is set forth in MCR 6.508, which provides as follows:

Rule 6.508 Procedure; Evidentiary Hearing; Determination

(A) Procedure Generally. If the rules in this subchapter do not prescribe the applicable procedure, the court may proceed in any lawful manner. The court may apply the rules applicable to civil or criminal proceedings, as it deems appropriate.

(B) Decision Without Evidentiary Hearing. After reviewing the motion and response, the record, and the expanded record, if any, the court shall determine whether an evidentiary hearing is required. If the court decides that an evidentiary hearing is not required, it may rule on the motion or, in its discretion, afford the parties an opportunity for oral argument.

(C) Evidentiary Hearing. If the court decides that an evidentiary hearing is required, it shall schedule and conduct the hearing as promptly as practicable. At the hearing, the rules of evidence other than those with respect to privilege do not apply. The court shall assure that a verbatim record is made of the hearing.

(D) Entitlement to Relief. The defendant has the burden of establishing entitlement to the relief requested. The court may not grant relief to the defendant if the motion

(1) seeks relief from a judgment of conviction and sentence that still is subject to challenge on appeal pursuant to subchapter 7.200 or subchapter 7.300;

(2) alleges grounds for relief which were decided against the defendant in a prior appeal or proceeding under this subchapter, unless the defendant establishes that a retroactive change in the law has undermined the prior decision; for purposes of this provision, a court is not precluded from considering previously decided claims in the context of a new claim for relief, such as in determining whether new evidence would make a different result probable on retrial, or if the



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Exhibit 1



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previously decided claims, when considered together with the new claim for relief, create a significant possibility of actual innocence;

(3) 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 under this subchapter, unless the defendant demonstrates

(a) good cause for failure to raise such grounds on appeal or in the prior motion, and

(b) actual prejudice from the alleged irregularities that support the claim for relief. As used in this subrule, "actual prejudice" means that,

(i) in a conviction following a trial,

(A) but for the alleged error, the defendant would have had a reasonably likely chance of acquittal; or

(B) where the defendant rejected a plea based on incorrect information from the trial court or ineffective assistance of counsel, it is reasonably likely that

(1) the prosecutor would not have withdrawn any plea offer;

(2) the defendant and the trial court would have accepted the plea but for the improper advice; and

(3) the conviction or sentence, or both, under the plea's terms would have been less severe than under the judgment and sentence that in fact were imposed.

(ii) in a conviction entered on a plea of guilty, guilty but mentally ill, or nolo contendere, the defect in the proceedings was such that it renders the plea an involuntary one to a degree that it would be manifestly unjust to allow the conviction to stand;

(iii) in any case, the irregularity was so offensive to the maintenance of a sound judicial process that the conviction should not be allowed to stand regardless of its effect on the outcome of the case;

(iv) in the case of a challenge to the sentence, the sentence is invalid.

The court may waive the "good cause" requirement of subrule (D)(3)(a) if it concludes that there is a significant possibility that the defendant is innocent of the crime.

(E) Ruling. The court, either orally or in writing, shall set forth in the record its findings of fact and its conclusions of law, and enter an appropriate order disposing of the motion.

The complicated procedural history of the case is set out in Defendant's motion correctly. To respond to this motion, the Court had to request the assistance of the Clerks of the Court of Appeals and the Michigan Supreme Court for all pleading filed in this case so it could be determined if the issues raised in this motion were also raised in the appellate courts. To make it easier for review I have attached them to this Order so they can be placed in our Court file.

Issue 1 – Appellate Attorney Zevelking was ineffective by failing to file a motion to withdraw defendants' plea and to request an evidentiary hearing.

The defendant had already asked to withdraw his plea prior to Sentencing in the trial court and was denied. It would have been futile to file it again when it had already been denied.

Issue II – The Michigan court of Appeals and Supreme Court deprived Defendant of Due Process and Equal Protection when they failed to remand the case to the trial court.

It is unclear how the defendant believes this fits the criteria for relief from Judgement pursuant to MCR 6.500 or that the Trial court has the power to decide that the appellate courts were in error when they denied this request.

Issue III – “The Trial Courts denial of his request to withdraw his plea before giving him an opportunity to consult with his attorney's deprived the defendant of the effective assistance of counsel. Additionally, Attorney's Bush and Kleidon failure to inform Defendant of reasons to justify withdrawing his plea before Sentencing further constituted ineffective assistance of counsel. These failures, strengthened by Defendants attempt to withdraw his plea prior to it being accepted on the record, entitles him an opportunity to withdraw his plea”.

Everyone is entitled to their own opinions, but not their own version of the facts. The defendants no contest plea was accepted on the date of the plea 1/24/2008. The defendant has continued to state that his plea was “taken under persuasion”. The defendant attached a letter from the first court appointed appellate attorney, Mr. Uljaky, written on May 20, 2008, in which he stated that he found no basis in the record for the defendant's belief and that the plea was taken under “persuasion” and that he did not find any errors in the plea process or the sentencing. (see attached). The defendant now argues it was taken “under advisement”; this is also not true as evidenced by the arraignment order which is attached.

The rest of his argument is contradictory. He states that the Court did not let him consult his attorneys and then that they failed to advise him properly when he did consult with them. The fact of the matter is I denied his request to withdraw his plea prior to sentencing and it would not serve a purpose for either appellate counsel to raise it again.

Issue IV- Defendants trial attorneys were ineffective for failing to inform defendant of potential defenses and elements of the charges, failing to investigate or prepare defendant for psychiatric examinations, adopting a guilty view of Defendant, failing to inform defendant of potential Sentences, and failing to put the prosecutor's case to adversarial testing, all of which could be connected a conflict of interest.

These issues were addressed and rejected in the State Appellate Courts. (See attached materials received from the court of Appeals and Michigan Supreme Court) If each issue was not addressed it could have been. The defendant pled no contest to these charges and charges in another file in exchange for dismissal of charges in yet another file. The plea complied with court rules and was voluntary, knowing, and understanding.

Defendants' belief that he could have gotten a better deal if this or that had been done is conjecture and wishful thinking. The most striking example of this is the statement that "counsel could have asked the court to give defendant a preliminary assessment of what Sentence would be appropriate, pursuant to People v Cobbs. Had defendant known about this, he could have made it a condition of pleading." If he had known about this, he could have asked his attorneys, and they would have told him that "Judge Stutesman does not do Cobb's agreements." In 19 years, I never have.

The plea agreement was placed on the record and as his appellate attorney indicated there was no error. The defendant confirmed he understood the difference between a guilty plea and a no contest plea, that there were no other promises made, that he was not being forced by anyone to plead and that he was doing so voluntarily, and he did so under oath.

Issue V- The State of Michigan systematically denied Defendants sixth amendment right to a speedy appeal, enforceable by the Due Process Clause of the Fourteenth Amendment.

No response needed by the trial court in a MCR 6.500 Motion

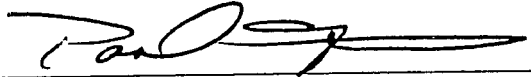
Issue VI- "The Sentencing Court violated Defendant's Fourteenth Amendment Constitutional right to Due Process and Eighth Amendment right to be free from Cruel and Unusual Punishment by failing to considering Defendant's Youth."

This case is not covered by the argument Defendant raised regarding Juvenile Lifer Cases. These issues could have been raised by Defendant in Appellate Courts.

For these reasons, Defendant's Motion for Relief From Judgment is DENIED.

No successive Motions for Relief from Judgment will be heard unless it meets the requirements of MCR 6.502(G).

Dated: March 30, 2024


Paul E Stutesman,
Circuit Court Judge (P46810)

The undersigned certifies that a copy of the above document was mailed to the Defendant, and the St. Joseph County Prosecuting Attorney by first class mail on the 1st day of April, 2024.

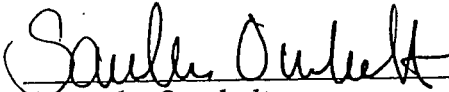

Samantha Overholt,
Judicial Secretary

Exhibit 4

**Additional material
from this filing is
available in the
Clerk's Office.**