

26 - 55 00

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

AUG - 6 2026

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

DENZEL ARTHUR SIMMONS — PETITIONER
(Your Name)

vs.

People of MICHIGAN — 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

DENZEL ARTHUR SIMMONS

(Your Name)

St. Louis Correctional Facility
(Address) 8585 N. Croswell Road

St. Louis, michigan 48880
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

IS 126 to 210 months in violation of rights? YES

IS 22 years to 40 years more than double the guideline? YES

Did the court knowingly used false testimony and failed to correct false testimony? YES

IS the sentence improper and base on fraud on the court? YES

Did the court properly articulate it's reasoning for the out of guideline sentence? NO

Did the court error in assiging 25 point for ov-13? YES

Did the court error in assiging 15 point for ov-10? YES

Did the court error in assiging 10 point for ov-3? YES

Did the court error in giving points for PRV 5 and 6 for prior crimes he was not found guilty of? YES

Did the court error in assiging points for PRV 7 and ov-9?
YES

Are there issues of importance beyond the particular facts and parties involved under "Lockridge" remand due process under Cady's hearing? YES

QUESTION(S) PRESENTED

Did the clerk administ~~re~~ a defective oath? YES

Did the court give all charges the same elements not found in the MCL's statute? YES

IS Mr. Simmons's sentence actually unconstitutional? YES

QUESTION(S) PRESENTED

IS 126 to 210 months in violation of rights? YES

IS 22 years to 40 years more than double the guideline? YES

Did the court knowingly used false testimony and failed to correct false testimony? YES

IS the sentence improper and base on fraud on the court? YES

Did the court properly articulate it's reasoning for the out of guideline sentence? No

Did the court error in assiging 25 point for ov-13? YES

Did the court error in assiging 15 point for ov-10? YES

Did the court error in assiging 10 point for ov-3? YES

Did the court error in giving points for PRV 5 and 6 for prior crimes he was not found guilty of? YES

Did the court error in assiging points for PRV 7 and ov-9?
YES

Are there issues of impertence beyond the particular facts and parties involved under "Lockridge" remand due process under Crodly's hearing? YES

QUESTION(S) PRESENTED

Did the clerk administre a defective oath? YES

Did the court give all charges the same elements not found in the mcl's statute? YES

IS Mr. Simmons's sentence actually unconstitutional? YES

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included. *People of michigan.*

RELATED CASES

LC: 12-007320-01-FC
COA: 377482
SC: 169757

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE.....	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	<i>Michigan Supreme Court order</i>
APPENDIX B	<i>Sentencing information report and Pretrial sentencing report</i>
APPENDIX C	<i>Register of action</i>
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Apprendi v New Jersey, 530 US 466, 120 S. Ct. 2348, 147 L. Ed. 2d 425 (2000)	Pg 7,
Blahely v Washington (2004)	Pg 7,
Baum v Baum, 20 Mich. App. 68, 173 N.W. 2d 744 (1969)	Pg 10,
Crosby remand at 30	Pg 371
Coles, 417 Mich at 542	Pg 3, 4
Feliciano, 485 Mich at 1122-1123	Pg 6,
Hart v Marion Corr. Inst., 927 F.2d 256, 259 (6 th Cir 1991)	Pg 7,
Howard, 323 Mich App at 253	Pg 1, 4
Lockridge	Pg 1, 2, 4, 7
Kiefer v Kiefer, 212 Mich. App. 176, 536 N.W. 2d 873 (1995)	Pg 10,
Linde v Turner, 2016 US Dist. LEXIS 43910, 2016 WL 1275729	Pg 7,
Oregon v Ice, 555 US 160, 163, 129 S. Ct. 711,	Pg 7,
People v Bonilla-machado, 489 Mich 412, 415-416, 803 NW2d 217 (2011)	Pg 6,
People v Coles, 417 Mich 523, 541-546, 339 NW2d 440 (1983)	Pg 4,
People v Edwards, 465 Mich 961 (2002)	Pg 9,
People v Beck	Pg 8,
People v Stovall (2022)	Pg 1,
People v Betts	Pg 8,
People v Sexton	Pg 8,
People v Hurley, 475 Mich. 858 (2006)	Pg 9,
People v Sinclair, (1972)	Pg 9,
People v Thomas, 497 Mich 390, 392-394, 523 NW2d 215 (1994)	Pg 6,
People v Millbourn, 435 Mich 630, 661, 461 NW2d 1 (1990)	Pg 5,
People v Kimble, 470 Mich 305, 310 (2004)	Pg 3

TABLE OF AUTHORITIES CITED

Rita v US, 551 U.S. 338, 354, 127 S. Ct. 2456, 168 L. Ed. 2d 203 (2007)	Pg 5,
Spicer v Schooley, 2009 US Dist Lexis 112148	Pg 5,
Slack v McDaniel, 529 US 473, 484 (2002)	Pg 9,
Thompson v Warden, 598 F.3d 281 (6 th cir 2010)	Pg 7,

STATUTES AND RULES

mcl 333.7401	Pg 5,
mcl 600.308	Pg 3,
mcl 750.82	Pg 1, 6
mcl 750.83	Pg 1, 6
mcl 750.84	Pg 1, 6
mcl 750.227b	Pg 1, 6
mcl 750.411 (1)(b)	Pg 2,
mcl 768.14	Pg 2,
mcl 768.15	Pg 1,
mcl 769.34 and (10)	Pg 5,
mcl 777.33 (1)(d)	Pg 5,
mcl 777.39 (1)(d)	Pg 6,
mcl 777.40	Pg 6,
mcl 777.40 (1)	Pg 6,
mcl 777.40 (1) (a)	Pg 6,
mcl 777.40 (2)	Pg 6,
mcl 777.43	Pg 6,
mcl 777.57	Pg 5,
mcl 777.57 (1)(2)	Pg 5,
mcl 777.57 (2)(2)	Pg 5,
mcl 777.57 (2)(b)	Pg 5,

TABLE OF AUTHORITIES CITED

mcl 777.57 (2)(c)	Pg 5
mcl 777.33	Pg 5
mcr 2.511	Pg 2
mcr 2.512 (D)	Pg 2
mcr 2.612 (c)(2)	Pg 10
mcr 2.612 (c)(3)	Pg 10
mcr 6.425 (D)(1)(c)	Pg 4
mcr 6.502 (G)	Pg 3
mcr 6.502 (G)(2)	Pg 10
mcr 6.508 (D)	Pg 10, 9
mcr 6.508 (D)(3)(b)(ii')	Pg 10
mcr 6.508 (D)(3)(b)(iii')	Pg 9
mcr 7.211 (c)(1)(2)(ii')	Pg 10
mcr 7.216 (A)(7)	Pg 5
mcr 791.4401	Pg 5
const 1963, art 634	Pg 4
subrule (D)(3)(2)	Pg 10
section 2612.19	Pg 10
FRCP 11 (b)(1)(H)	Pg 7
Sixth Amendment	Pg 1, 5

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 N/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 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 _____ to the petition and is

☒ reported at Michigan's Supreme Court; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Michigan's Supreme Court court 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.

JURISDICTION

☐ For cases from **federal courts**:

N/A

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 May 22, 2026.
A copy of that decision appears at Appendix A_____.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A_____, 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 N/A_____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

Mr. Simmons's application for leave to appeal was filed March 3, 2026 and denied May 22, 2026. Mr. Simmons's successive motion for relief from judgment motion is established on the retroactive application of the "Lockridge" reman "ECF No. 27 I.D. 2510" That was not a copy's hearing in his case, as the supreme court made it a new retroactive due process in all Lockridge's remans as outlined in "Howard". Therefor established issues of importance beyond the particular facts and parties involved under "Lockridge" retroactive due process. And the successive motion was filed 7-21-2025 after "Howard" became retroactively applicable in "Lockridge remans".

Mr. Simmons was found guilty of AWIM mcl 750.83, FA mcl 750.82, GBH mcl 750.84, FF mcl 750.227b, based only on testimony evidence, that he shot a man two times in the back almost killing a victim. [Trial 4-9-13, Pg 22, 23, 24, 25], [Trial Tr. IV, Pg ID 24-27], [Trial 4-11-13, Pg ID 7, 17]. The trial court sentenced him to a 20 years minimum sentence for his AWIM conviction, consecutive to an additional 2 years for felony firearm. 4-11-2013 on inaccurate information.

Mr. Simmons appealed as of right, challenging his convictions and sentences. In his standard successive 6.500, he argued that the trial court's judicial factfinding to assess points when scoring his offense variables violated his due process rights, Sixth Amendment. Because it was based on inaccurate information and fraud testimony.

STATEMENT OF THE CASE

There are no photos or medical evidence that a victim was shot. [2-6-13, Pg ID 4,18], [Trial 4-9-13, Pg ID 5,9,12] And the statement on [Trial 4-10-13, Pg ID 4,9,10,23]. After tripping over a garbage can knowdish victim's boxers red on the right side. That's the buttocks not the back. Therefore counsel failed to make timely objections to repeated prosecutorial misconduct, fraud on the court. 126 to 210 guideline range was not upheld, and wrong as PRV's and OV's is base on fraud.

The clerk administered a defective oath to the jurors at Mr. Simmons's trial with constituted structural error requiring automatic reversal of convictions. The oath was given late and did not comply with mcl 768.15, mcl 768.14, or mcr 2.511 [Trial 4-8-13, Pg ID 168-169], [Trial 4-9-13, Pg ID 14-15] "Raise your right hand, please, you do solemnly swear or affirm that you will answer truthfully all in the case now pending before this court."

As the judge gave instructions giving all charges the same elements, violate mcl 750.411 a (1)(b), mcr 2.512 (d). [Trial 4-9-13, Pg ID 20], [Trial 4-11-13, Pg ID 44 to 49]. Therefor violated Mr. Simmons's right to a fair trial. Because the jury instructions did not adequately cover all the elements of each crime charged. Did not include only the words found in the statute.

REASONS FOR GRANTING THE PETITION

The issues of importance beyond the particular facts and parties involved. The existence of a conflict between the decision of which review is sought and a decision of another appellate court on the same issues of Lockridge reman should have been a crubys hearing and therefore not prohibited by mcr 6.502(G). People v. Stovall (2022)

Defendant's sentence is outside the appropriate guidelines sentence range, for whatever reason, is appealable regardless of whether the issue was raised at sentencing, in a motion for resentencing, or in a motion to remand. In any event, the court remanded to the trial court "ECF No. 27 I.D. 2510" without retaining jurisdiction, ordering it to resentence Mr. Simmons on AWIM, FF, FA, GBH conviction and "to articulate the rationale underlying the imposed sentences and to specify the manner and extent to which the victim's statements influenced its sentencing determination. After knowing the DPD investigation reports and medical records contradict the victim's statements on record at trial. As the court put in the updated (P.S.I) report the victim was shot by the hip, that the buttocks. See Appendix B. Also People v. Kimble, 470 mich 305, 310 (2004).

under mcl 600.308, whether the appeal be one to which Mr. Simmons is absolutely entitled or one he must apply for leave to appeal. The court of appeals has jurisdiction to hear appeals involving a review of Mr. Simmons's sentence. Now the supreme court concluded that the foregoing constitutional and statutory authority. Appellate courts with jurisdiction to review all sentencing issues. [Coles, 417 mich at 535].

REASONS FOR GRANTING THE PETITION

Coles grounded its holding in public policy and the court's general powers under const. 1963, art 6§4. See Coles, 417 mich at 542.

The courts formally held that a convicted individual was entitled to appellate review of a trial court's exercise of its sentencing discretion, so that excessively severe sentences and impermissible unjustified disparities, such as those based on inaccurate information could be reviewed and corrected as in Mr. Simmons's case. See People v. Coles, 417 mich 523, 541-546; 339 NW2d 440 (1983).

Mr. Simmons relies on mcr 6.425(D)(1)(c) to argue that he should have been allowed to "inform the trial court of any circumstances" that he believed the trial court should consider when crafting and imposing the sentence." But because the trial court was not performing a resentencing, mcr 6.425(D)(1)(c). On the "Lockridge Reman" ECF No. 27 I.D. 2510" was not applicable. Mr. Simmons like the defendant in Howard, was not allowed to appear and be heard before the trial court. See Howard, 323 mich App at 253. Mr. Simmons was not given the opportunity to advise the court on the inaccurate information, before the judge can decide whether she would resentence him.

Mr. Simmons's PRV's and OV's are wrong, based on inaccurate information. The sentencing guideline range in the sentencing information report does not match the guideline range that was giving at sentencing. 4-26-2013 See Appendix B and Appendix A

REASONS FOR GRANTING THE PETITION

The failure to calculate Mr. Simmons's guidelines rights is procedural error see. *Spicer v. Schooley* 2009 US Dist Lexis 112148, mcr 791.4401, mcr 7.216(A)(7), mcl 769.34 [Trial 4-26-13]

Mr. Simmons's 126 to 210 guideline minimum and max range was violated and not upheld. Because Mr. Simmons was sentence to 275 to 492 months. As both guidelines are based on inaccurate information and fraud reports, require reman resentencing under mcl 769.34(10) Sixth Amendment. *Rita v. US*, 551 U.S. 338, 354, 127 S Ct 2456, 168 L. Ed 2d 203 (2007). *People v. Milbourn*, 435 mich 630, 661, 461 NW2d 1 (1990)

Mr. Simmons's PRV 5 and 6 for prior record variable score, inaccurately gave him points for crimes he was not found guilty of, therefor should be at zero. Changing the guidelines.

Mr. Simmons's PRV 7 subsequent or concurrent felony convictions mcl 777.57 was inaccurately given 20 points of 2 or more subsequent or concurrent felony convictions mcl 777.57(1)(a). The instructions states points under PRV 7 if convicted of multiple felony counts after the sentencing offense was committed mcl 777.57(2)(a). Also a conviction of felony firearm may not be counted under PRV 7 MCL 777.57(2)(b), mcl 777.57(2)(c), mcl 333.7401. And it was.

Mr. Simmons was inaccurately given 10 points for OV 3, physical injury to victim mcl 777.33. As there is no evidence, medical records, proof, that shows bodily injury requiring medical care to a victim. mcl 777.33(1)(d)

REASONS FOR GRANTING THE PETITION

Mr. Simmons was inaccurately giving 10 points for OV9. As there were fewer than 2 victims were placed in danger of physical injury or death, or fewer than 4 victims were placed in danger of property loss. mcl 777.39(1)(d).

Mr. Simmons was inaccurately giving 15 points for OV10 for exploitation of vulnerable victim mcl 777.40. The courts never stated nor proven Mr. Simmons shown predatory conduct was involved. mcl 777.40(1)(2). The mere existence of one or more of the factors described in mcl 777.40(1) does not automatically equate with victim vulnerability. mcl 777.40(2).

Mr. Simmons was inaccurately giving 25 points for OV13, continuing pattern of criminal behavior mcl 777.43. AWIM mcl 750.83, FA mcl 750.82 was on Mr. Gee and GBH mcl 750.84 was on Mr. Bell and FF mcl 750.227b is not a crime against a person or property and can not be used in scoring OV13. See People v. Bonilla-machado, 489 mich 412, 415-416, 803 NW2d 217 (2011).

It appears the judge viewed the SIR scoring as "informational only" explains the judge's failure to acknowledge departing from the 126 to 210 guidelines range by sentencing Mr. Simmons to 264 to 492 months see Appendix B. Correcting the guidelines with accurate information puts Mr. Simmons's guideline range at 81 to 135 month. Violate the two-third rule. People v. Thomas, 447 mich 390, 392-394, 523 NW2d 215 (1994), Feliciano, 485 mich at 1122-1123.

REASONS FOR GRANTING THE PETITION

Mr. Simmons was given incorrect sentence information leading to the district court to sentence him to 264 to 492 months which is 54 months longer than the max stated by the court and 357 months longer than the accurate information guidelines. The trial court erred by misinforming Mr. Simmons of the max sentence in violation of FRCP 11(b)(1)(H). See e.g. *Hart v. Marion Corr. Inst.*, 927 F.2d 256, 259 (6th cir 1991). *Blakely v. Washington*, 542 US 296, 124 S.Ct. 2531, 159 L.Ed. 2d 403 (2004); *Apprendi v. New Jersey*, 530 US 466, 120 S.Ct. 2348, 147 L.Ed. 2d 435 (2000). [Trial 4-11-13, Pg ID 44, 49], [Trial 4-26-13]. *People v Beck*, *People v Betts*, *People v Sexton*.

The Supreme court established in those cases that "it is within the jury's province to determine any fact, other than the existence of a prior conviction increases the max punishment authorized for a particular offense. See *Oregon v. Ice*, 555 US 160, 163, 129 S.Ct. 711, 172 L.Ed. 2d 517 (2009); *Thompson v. Warden*, 598 F.3d 281 (6th cir 2010); *Linde v. Turner*, 2016 US Dist. LEXIS 43910, 2016 WL 1275729. That did not take place in Mr. Simmons's case.

The Supreme court issued "Lockridge" remans which held that Michigan's sentencing guidelines were unconstitutional, rendered them advisory, and granted all defendants sentenced under the mandatory guidelines regime the opportunity for a "Crosby remand" Mr. Simmons never received a "Crosby reman." on "Lockridge" reman. See "ECF No. 27 I.D. 2510"

REASONS FOR GRANTING THE PETITION

The court's decision to uphold the 264 to 492 months sentence constituted a 600% or more increase from high end of the 126 to 210 months recommended guideline range for the offense on inaccurate information. Correcting the sentencing information report put Mr. Simmons's guidelines at 81 to 135 months making the court's decision to uphold the 264 to 492 months sentence for Mr. Simmons constitute a 1000% or more increase from high end of his 81 to 135 month recommended guideline range for the offense.

CONCLUSION

Mr. Simmons have shown palpable conflict between the decision of which review is sought and a decision of another appellate court on the same issues. And a different disposition of review must result from correction of the inaccurate information.

The irregularity are 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. Establishing entitlement to relief under MCR 6.508 (D), (3), (b), (iii). Therefore this court should vacate the lower court's denial and remand for consideration on the merits. *People v. Edwards*, 465 Mich. 961 (2002). Mr. Simmons has established good cause and prejudice entitling relief from sentence pursuant to MCR 6.508 (D), where the sentencing guidelines imposed a prison sentence on inaccurate information without articulating substantial and compelling reasons for the departure, renders the sentence invalid. *People v. Hurley*, 475 Mich. 858 (2006). Jurists of reason would find the district court's assessment of the challenging guideline range that should have been 81 to 135 months not 275 to 492 guideline range constitutional claim debatable or wrong. *Black v. McDaniel*, 529 US 473, 484 (2002); *People v. Sinclair*, (1972).

CONCLUSION

[Trial 4-9-13, Pg ID 22, 23, 24, 25], [Trial Tr. IV, Pg ID 24-27], [Trial 4-11-13, Pg ID 7, 17]. Once prosecutor argued victim was shot two times in the back, went to a hospital and almost died a number of times while concealing victim's medical records that show the victim was never shot in the back establish "Goodcause" requirement of subrule (D), (3), (2) a significant possibility that Mr. Simmons is innocent. The prosecutor's concealed material facts is a "Brady" violation to misrepresent material, the clerk administering a defective oath, the judge giving instruction to the jury, giving all the charges the same elements not found in the statutes establishing inaccurate information on record with the presentation of Mr. Simmons's case is fraud on the court in a broad sense. See *Baum v Baum*, 20 Mich. App. 68, 173 N.W.2d 744 (1969). MCR 2.612(C)(3) authorizes a court to set aside a judgment by way of an independent action for fraud on the court, entitled to relief under [section 2612.19] MCR 2.612(C)(2). *Kiefer v Kiefer*, 212 Mich. App. 176, 536 N.W.2d 873 (1995). Entitlement to relief under MCR 6.508 (D)(3)(b)(i)).

Resolved the question of the retroactivity analysis of "Lockridge" "Howard" Cobys hearing remain under MCR 6.502 (G)(2) or MCR 6.508 (D). A development of a factual record is required for appellate consideration of these claims. MCR 7.211 (C)(1)(a)(ii)).

The petition for a writ of certiorari should be granted.

Respectfully Submitted,  Denzel Arthur Simmons 6-29-26