State of Michigan

In the Michigan Supreme Court

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v.

MSC: 163968

COA: 358537

Van Buren CC: 76-002701-FC

EDWIN LAMAR LANGSTON,

Defendant-Appellant.

Plaintiff-Appellee's Answer to Defendant-Appellant's Application for Leave to Appeal

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Table of Contents

Index of Authorities

Counterstatement of Jurisdiction

The Supreme Court has jurisdiction over the application for leave to appeal in accordance with MCR 7.303(B)(1). Pursuant to MCR 7.305(C)(2) the application was timely filed within 56 days of the Court of Appeals December 2, 2021 order denying leave to appeal.

Counterstatement of Questions Involved

1. Is Langston's motion for relief from judgment barred by MCR 6.508(D)(3)?

   The trial court answered, "Yes".

   Appellee answers, "Yes".

2. Did the Circuit Court abuse its discretion in denying relief by following Michigan Supreme Court precedents *People v. Aaron* and *People v. Hall*?

   The trial court did not answer.

   Appellee answers, "No".

Counterstatement of Facts

On December 1, 1975 Arretta Ingraham was shot and killed by twenty-three-year-old Edwin Langston's co-defendant, Ronald Wilson, during a store robbery.

Events on December 1st before the crimes

Langston went to Wilson's sister's home where Wilson was staying and met with Wilson. TT 1257-1258. Later at Langston's girlfriend Delore Shaver's house, Langston handled the handgun used in the robbery and returned it to Wilson who put it down his pants. TT 1351-1352. Before leaving, according to Langston, Wilson asked Langston if he knew of any place that he could "stick up".[1] Langston and Wilson left the home together with Langston wearing a green army jacket. TT 1355. They then drove together in Wilson's Buick to the Maple Street grocery store. TT 1845-1846. Langston entered the store first, purchased a can of orange juice for nineteen cents, and then left. TT 1085-1086; TT 1845. Wilson wanted to know who was in the store and how many.[2] Langston told police that he told Wilson there were two women and two children. TT 1846. Langston was later overheard recounting the discussion with Wilson: "Man, when I went in there, like I told you,

[1] This statement was made to police after the robbery. Langston added that he replied to Wilson that he did not participate in this type of activity. TT 1844. The Prosecutor disputed the veracity of this latter statement given testimony about Langston's statements and actions after the robbery.

[2] Langston again claimed to police that he told Wilson that he didn't participate in things such as this. TT 1846.

it was only the two ladies there that worked there...There wasn't nobody else in there when I went in there, Man." TT 1732.

The robbery and murder

Langston told police he moved the car to visit some girls that lived behind the store. TT 1847. He visited with the girls for several minutes. TT 1386, 1418. He told one of the girls that Ronnie was down in the store busting them up. TT 1848. Mrs. Ingraham and store employee Barbara Sullivan were in the store when customer Gordon Hoag arrived. Wilson pointed a gun at Hoag and said, "This is a stickup." TT 1065-1066. A scuffle ensued and Hoag was knocked out. TT 1668-1669. By then, store owner Wilbur Ingraham had returned. TT 1796-1797. He was grabbed around the neck from behind. Wilson said to give him the money or he would shoot. TT 1798. Wilson directed the women to open the cash register. Mr. Ingraham heard a click and a "bang". His wife was shot once and muttered her last words, "I love you". TT 1800-1801. Wilson took the money from the tray and Mr. Ingraham's billfold. TT 1801.

Events after the crimes

A nearby resident saw Langston, wearing a green army jacket, walking toward the store and shortly after, coming back. He was glancing over his shoulder as he came back. Shortly after, she saw another black youth following him and walking rather fast past her house. She then saw an older car leaving. TT 1198-1200, 1203-1205.

Langston told police that when he left the girls' home he saw Wilson walking down the street. They got into the car and left the area. TT 1148-1150. Langston claimed that he wanted to get away from Wilson. TT 1149, 1151. Delores Shaver testified they were laughing and talking and went into the bedroom for fifteen or twenty minutes when they returned to the place where Langston stayed. TT 1356. When Wilson left, he told Langston he would see him later. TT 1357.

Later in the evening, Langston and Shaver left to go to a show and encountered a police roadblock where they were informed there had been a murder in town. Langston was asked to step out of the car. When he returned he said they scared him. TT 1361-1362. Instead of going to a show, at Langston's request they went to Wilson's sister's house. Langston asked where Ronnie was. Wilson and Langston went into a bedroom. TT 1362-1363. Later they came to the room where Delores was. She heard Langston tell Wilson to lay low because he was going to lay low in the country. TT 1364.

While Wilson and Langston were in the bedroom at Wilson's sister's house, Wilson's sister, Alta Madry, went into the adjacent bathroom and overheard them discussing the robbery. TT 1728. Langston asked Wilson what took him so long. Wilson replied, "Man, it didn't go like you told me." Langston asked, "What you mean, Man?" Wilson said, "You told me it was only two ladies in there." Langston answered, "When I got there it was two ladies behind the counter, and it was two other ladies in the store, and about two or three kids." TT 1732.

After this conversation, Langston left the house but returned several minutes later, asking for Wilson again. Langston went to the back room to meet with Wilson. Alta Madry went back there also and saw on the bed between Wilson and Langston the wallet and its contents which matched Mr. Ingraham's billfold contents. TT 1737-1739; TT 1803-1807. Langston said he was going to keep "the key that probably opens up the door to the store, and if they ever go out of town on a weekend, I am going to rip them off." He put the key in his pocket. TT 1738. Langston later told Alta, "I didn't know your brother had the heart." TT 1742.

Several steps were taken to avoid detection. Langston told Wilson to move his car out of the yard before he gets them both busted. The two then moved the car out of the yard. TT 1715-1716. Langston told Wilson to burn the wallet. TT 1747. Langston told Wilson "that he better get out of town because the police had a description, a full description of him." TT 1716. When Wilson said he should take the bus, Langston "told him he shouldn't because they might be checking the bus." TT 1717. Langston said he was going to lay low and get out of town for a couple days. TT 1717.

Procedural history

Langston's jury was instructed that to convict Langston as an aider and abettor, they had to be convinced beyond a reasonable doubt "that this murder which occurred was fairly within the scope of a criminal enterprise and it might have been expected to happen in the course of committing this robbery with a pistol." TT 2063-2064.

On August 18, 1976 the jury returned a guilty verdict against Langston of first-degree murder. TT 2096. Langston was thereafter sentenced to mandatory life in prison for felony-murder. ST 2, 5-6.

Langston appealed. He mainly objected to the trial court's instructions on mens rea. The Court of Appeals reversed and remanded his case for a new trial. By its ruling, the court said it eliminated the need to discuss other alleged grounds for reversal. *People v. Langston*, 86 Mich.App. 656, 658; 273 N.W.2d 99 (1978).

The Michigan Supreme Court reversed the judgment of the Court of Appeals and reinstated Langston's conviction after its decision in *People v. Aaron*, 409 Mich. 672; 299 N.W.2d 304 (1980). *People v. Langston*, 413 Mich. 911; 320 N.W.2d 53 (1982).

In 1985 Langston pursued a delayed appeal of issues the Court of Appeals had not addressed in its previous opinion. Appellant's Exhibit E. See also *People v. Langston*, 426 Mich. 862; 393 N.W.2d 873 (1986). In 1988 the Court of Appeals affirmed Langston's conviction in an unpublished opinion. Appellant's Exhibit F.

In 1992, Langston filed a motion for relief from judgment, which was denied. Defendant-Appellant's Application for Leave to Appeal, p. 9. His 2003 pro se 6.500 motion was returned without filing and without prejudice. Appellant's Exhibit G.

In denying Langston's 2020 MCR 6.500 motion, the circuit court wrote that his motion was not procedurally barred by MCR 6.508(D)(2). But the court said that because Langston could have raised the issues in his post-*Aaron* 1980s appeal but

did not do so, he must demonstrate good cause and actual prejudice to sidestep the MCR 6.508(D)(3) bar to relief. The court did not waive the good cause requirement and did not see good cause or actual prejudice demonstrated.

Argument

Introduction

Michigan's first-degree felony-murder statute, MCL 750.316, does not define murder or use the word "malice". In Michigan, murder is not statutorily defined. *Aaron*, at 713. The common-law felony-murder doctrine recognized the intent to commit the underlying felony as a sufficient mens rea for murder. *Aaron*, at 717. The Supreme Court in *Aaron* exercised its role in the development of the common law by abrogating the common-law felony-murder rule. *Aaron*, at 733. The decision was not given retroactive effect. *Aaron*, at 734.

1. Appellant's application for leave to appeal should be denied because he is procedurally barred from relief under MCR 6.508(D)(3).

Standard of Review

A trial court's ruling on a motion for relief from judgment is reviewed for an abuse of discretion. An abuse of discretion occurs when a trial court's decision falls outside the range of reasonable and principled outcomes. *People v. Stovall*, 510 Mich. 301, 334; 987 N.W.2d 85 (2022).

Discussion

All of Appellant's grounds for relief could have been raised, if not in his post-*Aaron* 1985 appeal, in his 1992 motion for relief from judgment.

MCR 6.508(D)(3), in pertinent part, reads:

(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

(3) alleges grounds for relief ... 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 ..., 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.

Appellee agrees with Appellant and the Circuit Court that Langston's 1992 motion for relief from judgment did not preclude him from filing his 2020 6.500 motion. But that did not permit him to raise grounds for relief in 2020 that could have been raised 28 years earlier. The rule clearly states: "The court may not grant relief to the defendant if the motion alleges grounds for relief ... which could have been raised ... in a prior motion under this subchapter," unless the defendant demonstrates good cause and actual prejudice.

People v. Hall, 396 Mich. 650; 242 N.W.2d 377 (1976) which held that life without parole sentences for felony-murder were not cruel or unusual punishment

was decided the same year Langston was convicted, 16 years before his 1992 motion.

"Long-delayed motions seeking relief from convictions are disfavored." *People v. Jackson*, 465 Mich. 390, 399 n.8; 633 N.W.2d 825 (2001). "[I]t is entirely appropriate that a much higher standard be applied to a defendant who seeks relief from a judgment long after the conviction. Just as an appellate court is to consider the length of and reasons for delay in deciding whether to grant leave to appeal, the delay in bringing such a motion is a factor that the trial court must consider in determining whether to grant relief. In such cases, our concerns for finality and the efficient and effective administration of justice grow in importance." *People v. Ward*, 459 Mich. 602, 611; 594 N.W.2d 47 (1999).

"The specific purpose for creating the postconviction procedure was to provide finality of judgments affirmed after one full and fair appeal and to end repetitious motions for new trials." *People v. Reed*, 449 Mich 375, 381; 535 NW2d 496 (1995).

Appellee's 1992 motion was filed 12 years after *Aaron*. Defendant was not represented by counsel when he filed his 2003 motion. It is unknown to Appellee if he was represented by counsel in 1992. The court may appoint counsel at any time during the proceedings where the defendant requests and the court determines that the defendant is indigent. MCR 6.505(A). "A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney." Michigan Const. Art. 1, § 13.

If Langston chose to represent himself, he cannot now complain of ineffective assistance of counsel as good cause for not raising grounds for relief previously. Moreover, "Counsel is not ineffective for taking a position that, while objectively reasonable at the time, is later ruled incorrect." *Reed, supra*, at 396.

Langston has not shown good cause for not raising these grounds for relief in his 1992 motion.

The Court in *Aaron* recognized the existence of the common-law felony-murder rule and abolished it. *Aaron* at 723, 733. In doing so, the Court did not declare what the statute meant and has always meant. Rather, they openly altered the law. They even included a section heading entitled: "VI. PRACTICAL EFFECT OF ABROGATION OF THE COMMON-LAW FELONY-MURDER DOCTRINE". *Aaron*, at 729.

Because the law in effect at the time of Langston's trial was different than today, he has not shown actual prejudice.

2. Appellant's application for leave to appeal should be denied because the Circuit Court did not abuse its discretion in following Supreme Court precedent in *People v. Aaron and People v. Hall*.

Standard of Review

A trial court's ruling on a motion for relief from judgment is reviewed for an abuse of discretion. An abuse of discretion occurs when a trial court's decision falls outside the range of reasonable and principled outcomes. *People v. Stovall*, 510 Mich. 301, 334; 987 N.W.2d 85 (2022).

Discussion

The Supreme Court made it clear that the common-law felony-murder doctrine was in effect prior to its decision in *Aaron*. *Aaron*, at 723. The Court made its *Aaron* ruling prospective only, "This decision shall apply to all trials in progress and those occurring after the date of this opinion." *Aaron,* at 734. The Sixth Circuit Court of Appeals held that a habeas petitioner's constitutional rights were not violated by the Michigan Supreme Court's decision to apply *Aaron* only prospectively. *Bowen v. Foltz*, 763 F.2d 191, 194 (1985).

It has been almost 48 years since Langston was convicted. It would be impossible for the People to present their case decades later with so many now unavailable witnesses.

The Circuit Court did not abuse its discretion when it followed long established Supreme Court precedent in *Aaron*.

Regarding Langston's mandatory life sentence, the Michigan Supreme Court has held that a life without parole sentence for felony-murder is not cruel or unusual punishment. *Hall, supra* at 657-658. It was not an abuse of discretion to follow this Supreme Court precedent.

Relief Requested

For the reasons stated above, the People respectfully request that this Court deny the application for leave to appeal.

Respectfully submitted,

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March 29, 2024

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CERTIFICATE OF COMPLIANCE

I certify that this document contains one-inch margins, with at least 1.5 lines spacing and is written in Century Schoolbook 12-point font. I additionally certify that this brief contains 2,458 words.

Respectfully submitted,

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