

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff-Appellee,

Michigan Supreme Court No. 163968

Court of Appeals No. 358537

Trial Court No. FC 76-2701-FC

-v-

EDWIN LARMAR LANGSTON

Defendant-Appellant.

GEARY GILMORE'S
BRIEF *AMICUS CURIAE* WITH APPENDIX

Geary Gilmore, #138763

Amicus Curiae

Muskegon Correctional Facility

2400 S. Sheridan Dr.

Muskegon, MI 49442

Date: March 28, 2025

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STATEMENT OF QUESTIONS PRESENTED

- (1) Whether a mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII, in all cases decided before *People v Aaron*, 409 Mich 672; 299 N.W.2d 304 (1980), where the jury was not required to make a finding of malice, or only in those pre-*Aaron* cases where overwhelming evidence of malice was not otherwise presented at trial?

Amicus Curiae answers: A mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII, in all cases decided before *People v Aaron*, *supra*, where the jury was not required to find malice.

- (2) What is the standard by which the courts should determine whether sufficient evidence of malice was presented and the means by which a defendant should present such an argument?

Amicus Curiae answers: No standard can justifiably be used to determine whether sufficient evidence of malice was presented at trial, where the purpose of which would be to affirm the unconstitutional mandatory sentence of life imprisonment without parole that pre-*Aaron* defendants have been serving for forty-five years.

3. What remedy is required if any defendants' sentences of mandatory life imprisonment without parole are found invalid?

Amicus Curiae answers: Resentencing to a term of years sentence that would allow the pre-*Aaron* defendant a realistic opportunity for parole with the prosecutor having the option of retrial.

INTRODUCTION

On January 22, 2025, this Court heard oral arguments in the case of *People v Edwin Lamar Langston*, SC# 163968, 2025 Mich. LEXIS 169 (January 22, 2025). During the oral arguments, Prosecutor Eric Restuccia referred to Mr. Gilmore's case (*People v Geary Gilmore*, 73 Mich App 463; 252 N.W.2d (1977), [Exhibit A; 1a-8a], as a person who would receive a new trial if *People v Aaron*, 409 Mich 672 (1980), was applied retroactively. Geary Gilmore¹ was convicted in 1974, along with Jerome Holloway (1952-2016) and Byron Smith (1952-2020)², of First Degree Felony Murder for kidnapping and murdering Keith Arnold (6) and Gerald Craft (8). The Prosecutor's reference to Mr. Gilmore and his case appeared to be an attempt to persuade this Court to create an exception to the equal application of the law for the most heinous crimes. However, the facts surrounding Gilmore's role in the crime does not show "evidence of a depraved heart." (See Commutation, Exhibit B, 9a-25a).

On January 31, 2025, this Court directed the parties to file supplemental briefs addressing:

1. Whether a mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII, in all cases decided before *People v Aaron*, 409 Mich 672; 299 N.W.2d 304 (1980), where the jury was not required to make a finding of malice, or only in those pre-Aaron cases where overwhelming evidence of malice was not otherwise presented at trial;
2. If the later, the standard by which the courts should determine whether sufficient evidence of malice was presented and the means by which a defendant should present such an argument; and
3. What remedy is required if any defendants' sentences of mandatory life imprisonment without parole are found invalid.

People v Langston, S.C. No. 163968, 2025 Mich. LEXIS 169, (January 31, 2025).

¹ Geary Gilmore is the sole author of this brief *amicus curiae*. No counsel for any party authored this brief *amicus curiae* in whole or in part and no counsel or party made a monetary contribution intended to fund the preparation or submission of the this brief. MCR 7.313(H)(4)

² Both Jerome Holloway and Byron Smith died while in prison. See Offender Tracking Information System, <<https://mdocweb.state.mi.us/OTIS2/otis2profile.aspx?mdocNumber=129212>> [For Holloway], and See Offender Tracking Information System, <<https://mdocweb.state.mi.us/OTIS2/otis2profile.aspx?mdocNumber=127472>> [For Smith.]. "Discharged" can mean death or a release from imprisonment; Holloway and Smith died.

Mr. Gilmore is among those people serving a sentence of mandatory life imprisonment without parole and would be directly affected by this Court's decision in *Langston* and presents the following analysis of the questions presented by this Honorable Court to assist it in securing a just, speedy, and economical determination of this case.

ARGUMENTS

1. Whether a mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under Const 1963, art 1, § 16 or US Const, Am VIII, in all cases decided before *People v Aaron*, 409 Mich 672; 299 N.W.2d 304 (1980), where the jury was not required to make a finding of malice, or only in those pre-Aaron cases where overwhelming evidence of malice was not otherwise presented at trial.

A mandatory sentence of life imprisonment without parole for felony murder is cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII, in all cases decided before *People v Aaron*, *supra*, where the jury was not required to find malice. Malice is an essential element of murder and before *Aaron* was decided, the United States Supreme Court held that the State is constitutionally required to prove *all* elements of the crime charged beyond a reasonable doubt. In *In re Winship*, 397 U.S. 358, 90 S Ct. 1068, 25 L.Ed.2d 368 (1970), the Supreme Court said:

"Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." 397 U.S. at 364

If a jury was not required to find an essential element of a crime, then that element was not adjudicated, and for all intents and purposes that element was not proven. In a trial where the jury was not required to find an essential element of the crime, the resulting conviction violates the United States Constitution. A mandatory sentence of life imprisonment without parole for a crime in violation of the United States Constitution is cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII.

To find cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII, "only in those pre-Aaron cases where overwhelming evidence of malice was not otherwise presented at trial," would not resolve the unconstitutionality of the sentences being served by those pre-Aaron defendants where overwhelming evidence of malice was in fact presented at trial. In *Sullivan v Louisiana*, 508 U.S. 275, 277-278, 113 S Ct. 2078, 124 L Ed 2d 182 (1993), the Supreme Court said:

The *Sixth Amendment* [to the United States Constitution] provides that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury" We have found this right to trial by jury in serious criminal cases to be "fundamental to the American scheme of justice," and therefore applicable to state proceedings. The right includes, of course, as its most important element, the right to have the jury, rather than the judge, reach the requisite finding of "guilty." Thus, although a judge may direct a verdict for the defendant if the evidence is legally insufficient to establish guilt, he may not direct a verdict for the State, *no matter how overwhelming the evidence*. (Emphasis added).

Thus, regardless of the amount evidence presented at trial, where the jury did not find that malice existed, the judge cannot substitute his judgment for that of the jury and determine that sufficient evidence of malice was presented. A mandatory sentence of life imprisonment without parole under these circumstances is cruel and/or unusual punishment under *Const 1963*, art 1, § 16 or *US Const*, Am VIII.

2. What is the standard by which the courts should determine whether sufficient evidence of malice was presented and the means by which a defendant should present such an argument?

No standard can legitimately be used to determine whether sufficient evidence of malice was presented at trial, where the purpose of which would be to affirm the unconstitutional mandatory sentence of life imprisonment without parole that pre-Aaron defendants have been serving for forty-five years. The means will not justify the ends. Affirming pre-Aaron defendants' sentences of mandatory life imprisonment without parole for felony murder where a jury was not required to find malice (in violation of the Constitution) because it was determined, forty-five years later, that sufficient evidence of malice was presented at trial would be a travesty of justice. It would be a decision based on the

circumstances of each case, rather than a decision based on the equal application of the law. Any standard used to affirm an unconstitutional mandatory sentence of life imprisonment without parole would itself be unconstitutional and result in the continuation of cruel and/or unusual punishment under *Const 1963, art 1, § 16* or *US Const, Am VIII*.

Moreover, it is not the prerogative of judges or courts to determine whether sufficient evidence of malice was presented. As the Supreme Court said in *Alleyne v United States*, 570 U.S. 99, 133 S Ct 2151, 186 L Ed 2d 314 (2013): "Judicial factfinding that increase any fact that, by law, increases the penalty for a crime is an "element" that must be submitted to the jury and found beyond a reasonable doubt." Therefore, the element of malice, which increases the crime of manslaughter to murder, must be found by a jury beyond a reasonable doubt. Judicial factfinding to determine whether sufficient evidence of malice was presented at trial, is contrary to the *Sixth Amendment* right to trial by jury.

Also, requiring the pre-Aaron defendants to present an argument that "overwhelming evidence of malice was not otherwise presented" places the burden of proof on the pre-Aaron defendants that, according to the Supreme Court, belongs to the prosecution. As the Court said 130 years ago:

Strictly speaking, the burden of proof, as those words are understood in criminal law, is never upon the accused to establish his innocence or disprove the facts necessary to establish the crime for which he is indicted. It is on the prosecution from beginning to the end of trial and applies to every element necessary to constitute the crime. *Davis v United States*, 160 U.S. 469, 487 (1895)

Pre-Aaron defendants should not have the burden of presenting an argument that sufficient evidence of malice did not exist at trial, when the prosecution failed in his constitutional duty to submit the element of malice to the jury to find beyond a reasonable doubt.

3. What remedy is required if any defendants' sentences of mandatory life imprisonment without parole are found invalid

The fundamental question we must address here is: what is the *purpose* of the *remedy* that is being sought for the defendants whose sentences of mandatory life imprisonment without parole are found invalid? Is it the purpose to provide a genuine remedy, or an illusion of remedy?

"Remedy" has 4 definitions, but the 2 most relevant here include:

the legal means to recover a right or to prevent or obtain *redress* for a wrong.

to provide or serve as a remedy for: *relieve*

Merriam-Webster's Collegiate Dictionary, 11th Ed. (2009) (Emphasis added).

"Redress" has 5 definitions, but the 2 most relevant here include:

to set right

to make up for

Merriam-Webster's Collegiate Dictionary, 11th Ed. (2009).

"Relieve" has 13 definitions, but the 3 most relevant here include:

to free from burden: give aid or help to

to set free from an obligation, condition, or restriction

to ease of a burden, wrong, or oppression by judicial or legislative interposition.

Merriam-Webster's Collegiate Dictionary, 11th Ed. (2009) (Emphasis added).

A genuine remedy for *any* pre-Aaron defendants' whose sentences of mandatory life imprisonment without parole are found invalid, is resentencing to a term of years sentence that would allow the pre-Aaron defendants a realistic opportunity for parole with the prosecutor having the option of retrial.

A "term of years sentence" provides a genuine remedy in that, if the term of years imposed is within the pre-Aaron defendant's life expectancy, it would allow for their eventual release. It sets the pre-Aaron defendant free from the condition or restriction of a mandatory life imprisonment. An example of a genuine remedy would be resentencing to a term of years with a forty-five year minimum to a seventy-five year maximum. Such a sentence would effectively make the decision and remedy provided by this Court to the defendants in *People v Aaron, supra*, retroactive, giving pre-Aaron defendants the benefit (equal protection) of the Aaron decision. The pre-Aaron defendants would then be immediately eligible for parole; yet there would be enough time on their maximum sentence for the Parole Board to deny the release of those deemed to be a threat to society.

Reducing the "mandatory life sentences" the pre-Aaron defendants are now serving to "parolable life sentences" is an illusion of remedy. It is an illusion because there is little difference between a parolable life sentence and a mandatory life sentence: the majority of prisoners serving life sentences - both parolable and mandatory - die in prison. If the majority of prisoners serving parolable life sentences die in prison, where is the **remedy** for pre-Aaron defendants whose present sentences of mandatory life imprisonment without parole are found invalid and they are resentenced to parolable life imprisonment? How are they set free of their condition or restriction?

The major difference between parolable life sentence and mandatory life sentence is that the mandatory life sentence has to be commuted to a term of years by the Governor, which then gives the Parole Board the authority to grant parole. In the case of a parolable life sentence, the Parole Board has been given authority to grant parole by statute, MCL 791.234. In both parolable life sentences and mandatory life sentences, it is the Parole Board who decides who gets granted parole. Indeed, Governor has never granted a commutation to any prisoner who was not recommended for parole by the Parole Board. So the Parole Board is decisive in who is granted a parole, whether it is for a mandatory or parolable life sentence.

Michigan Department of Corrections (MDOC) Policy Directive 06.05.104 (04/01/2022), *Parole Process*, sets forth the procedures for parole consideration for both mandatory life sentences and parolable life sentences. It states in relevant part:

- M. Prisoners serving a non-parolable sentence are not eligible for parole. However, they may be considered for reprieve, commutation, or pardon in accordance with MCL 791.244. These prisoners shall be interviewed by one member of the Parole Board at the conclusion of ten calendar years of the life sentence even though they may not be eligible for parole at that time. Subsequent interviews shall be conducted at the discretion of the Parole Board.
- N. Prisoners who are serving a life sentence with the possibility of parole shall be interviewed by one of the Parole Board at the conclusion of ten calendar years of the life sentence. The Parole Board shall also review the prisoner's file at the conclusion of 15 calendar years of the prisoner's sentence and every five years thereafter until the prisoner is paroled, discharged, or deceased in accordance with MCL 791.234.

Per this policy, the Parole Board "reviews the files" of prisoners serving parolable life sentences every five years. If a pre-Aaron defendant is resentenced to parolable life today, and next month the

Parole Board reviews his file and decides not to take "interest" in his case, his file will not be "reviewed" again for five years. If the same thing at the prisoner's next file review, he will have served an additional ten years from the date his mandatory life sentence was reduced to parolable life sentence. In this scenario, after just two rejections by the Parole Board, the pre-Aaron defendants would likely be dead. In spite of the recent increase in paroles being granted to prisoners serving parolable life sentences, the Parole Board is not predisposed to releasing prisoners serving life sentences.

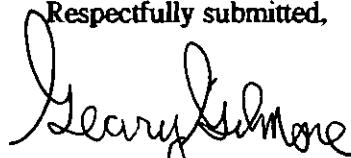
A term of years sentence would send a different signal to the Parole Board than a parolable life sentence would. Since *People v Vitali*, 156 Mich 370, 120 NW2d 10003 (1909), this Court has consistently held that "[I]f a life sentence is imposed there can be no minimum term." If a pre-Aaron defendant is resentenced to a parolable life sentence after forty-five years of imprisonment, then the Parole Board should assume that the sentencing court intended the pre-Aaron defendant serve a life sentence. Alternatively, if a pre-Aaron defendant is resentenced to a term of years, the Parole Board should assume that the sentencing court did not intend for him/her to remain in prison for life. In the later case, the Parole Board would likely be predisposed to parole the pre-Aaron defendant.

If this Honorable Court seeks to provide a genuine remedy for any defendants sentences of mandatory life imprisonment without parole, which would set him/her free of the condition or restriction of that mandatory life sentence, then order their resentencing to a term of years within the defendants' life expectancy, with the prosecution having the option of retrial.

Conclusion and Relief Requested

For the reasons stated above, the *Amicus Curiae* Geary Gilmore respectfully request that this Honorable Court grant the relief requested herein and by Mr Langston.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Geary Gilmore".

Geary Gilmore
Amicus Curiae

Date: March 28, 2025

APPENDIX

APPENDIX A: *People v Geary Gilmore*, 73 Mich App 463; 252 N.W.2d (1977) 1a-8a

APPENDIX B: Application for Commutation of Geary Gilmore with Letters of Support . . 9a-25a

320, 323; 240 NW2d 787 (1976). We find none. See generally *People v Olsson*, 56 Mich App 500, 506-507; 224 NW2d 691 (1974), *lv den*, 394 Mich 772 (1975).

Appellant's final assertion that the trial judge should have granted her motion to dismiss at the close of the appellee's case is without merit.

Affirmed.

PEOPLE v SMITH
PEOPLE v HOLLOWAY
PEOPLE v GILMORE

1. CRIMINAL LAW—SEPARATE TRIAL—JUDGES' DISCRETION—PREJUDICE.

The decision of whether to hold joint or separate trials of codefendants is discretionary with the trial court and a defendant who moves for a separate trial must show that his substantial rights will be prejudiced by a joint trial.

2. CRIMINAL LAW—SEPARATE TRIAL—SUPPORTING AFFIDAVITS—INCONSISTENCIES BETWEEN DEFENSES.

A trial court does not abuse its discretion in denying a codefendant's motion for a separate trial unless the motion for such trial is supported by an affidavit defining the inconsistencies between the defenses of the parties.

3. CRIMINAL LAW—SEPARATE TRIAL—CODEFENDANTS—TESTIMONY OF CODEFENDANTS.

A trial court did not abuse its discretion by denying the motions of codefendants for separate trials where the only substantial claims made by the codefendants were that in a joint trial they could not call their codefendants to testify or were denied their right of confrontation; codefendants, even if tried separately, cannot be compelled to testify against their will.

REFERENCES FOR POINTS IN HEADNOTES

- [1-3] 75 Am Jur 2d, Trial §§ 17-24.
Right to severance where two or more persons are jointly accused.
131 ALR 917.
- [4] 40 Am Jur 2d, Homicide §§ 310-314.
- [5, 6] 58 Am Jur 2d, New Trial § 56.
75 Am Jur 2d, Trial § 192.
- [7, 10] 21 Am Jur 2d, Criminal Law § 368.
- [8] 4 Am Jur 2d, Appeal and Error §§ 79, 80.
- [9] 21 Am Jur 2d, Criminal Law §§ 337, 343, 344, 349.
- [11] 75 Am Jur 2d, Trial §§ 152-157.
- [12] 30 Am Jur 2d, Evidence §§ 1124-1130.

Exhibit A, 1a

4. CRIMINAL LAW—EVIDENCE—HOMICIDE—REBUTTAL TESTIMONY—
EVIDENCE OF OTHER CRIME.

Testimony that an alleged party to a kidnapping and two homicides himself had been killed by the same gun used to kill the other two victims was properly admitted as rebuttal testimony where the testimony of one of the defendants implicated the party as the sole participant in the crime; this testimony did not improperly inject evidence of another crime into the case because its relevancy as rebuttal evidence outweighed its prejudicial effect.

5. APPEAL AND ERROR—CRIMINAL LAW—PROSECUTOR'S REMARKS—
FAILURE TO OBJECT.

A defendant's failure to object to allegedly improper remarks made by the prosecutor during closing argument precludes appellate review unless it can be said that an objection and the appropriate curative instruction could not have eliminated the prejudice arising from the prosecutor's statements.

6. CRIMINAL LAW—PROSECUTOR'S REMARKS—OPPORTUNITY TO ALTER
TESTIMONY—HARMLESS ERROR.

A remark by a prosecutor in his closing argument that the presence of the defendants in court gave them the opportunity to alter their testimony did not result in reversible error where no objection was made at trial, a curative instruction may have removed any error, and in the full context of the argument the error was harmless.

7. CRIMINAL LAW—EVIDENCE—VOICEPRINTS—STANDING TO OBJECT.

A defendant has no standing to object to the admission of voiceprints into evidence where the purpose of the admission was limited solely to use against his codefendant.

8. APPEAL AND ERROR—CREDIBILITY OF WITNESSES.

A trial court's estimate of the credibility of a witness will not be overturned by the Court of Appeals where that estimate is determinative of the legal validity of the issuance of a search warrant.

9. WITNESSES—CRIMINAL LAW—REFUSAL TO TESTIFY—PRELIMINARY
EXAMINATION TESTIMONY.

Testimony of a witness taken at a preliminary examination, at which the witness was thoroughly cross-examined, is admissible at the trial at which the witness refuses to testify; the trial court in such circumstances may properly rule that the witness is unavailable to testify.

10. CRIMINAL LAW—IDENTIFICATION—VOICEPRINTS—MIRANDA WARN-
INGS.

A voice exemplar used solely to measure the physical properties of a defendant's voice for purposes of identification and not for the testimonial or communicative content of what was said is admissible into evidence where the exemplar was taken from a suspect already in custody regardless of whether the suspect was given prior *Miranda* warnings.

11. CRIMINAL LAW—TRIAL—REOPENING OF CASE—WITNESSES.

A trial court properly allowed the prosecution to reopen its case, after the defendant had begun presentation of his case, for the purpose of securing testimony of a previously unavailable witness where the witness was a *res gestae* witness who had just recently returned to the jurisdiction.

12. CRIMINAL LAW—EVIDENCE—VERDICT—SUFFICIENCY OF EVIDENCE.

Evidence is insufficient to support a verdict of guilty if it could not support a finding of guilty beyond a reasonable doubt because one or more of the essential elements of the crime is not proved.

Appeal from Wayne, James N. Canham, J. Submitted October 5, 1976, at Detroit. (Docket Nos. 27045, 21830, 24016.) Decided February 2, 1977. Leave to appeal applied for.

Byron A. Smith, Jerome Holloway and Geary Gilmore were convicted of murder committed in the perpetration of a kidnapping and of kidnapping. Defendants appeal. Affirmed.

Frank J. Kelley, Attorney General, *Robert A. Derengoski*, Solicitor General, *William L. Cahalan*, Prosecuting Attorney, *Edward R. Wilson*, Research, Training and Appeals, and *Robert M. Morgan*, Assistant Prosecuting Attorney, for the people.

George E. Lee, for defendant Byron A. Smith on appeal.

Fred K. Persons, for defendant Jerome Holloway on appeal.

Carl Ziemba, for defendant Geary Gilmore on appeal.

Before: V. J. BRENNAN, P. J., and BRONSON and BASHARA, JJ.

V. J. BRENNAN, P. J. Defendants were tried jointly and convicted by a Wayne County Circuit Court jury of murder committed in the perpetration of a kidnapping, MCLA 750.316; MSA 28.548, and kidnapping, MCLA 750.349; MSA 28.581. All three defendants were sentenced to concurrent life terms. All three defendants appeal as a matter of right.

In simplified terms, the facts of this matter arose in the following order. On December 1, 1973, Keith Arnold and Gerald Kraft, aged six years and eight years respectively, disappeared in late afternoon while playing near their homes on Inverness in the city of Detroit.

At 9 o'clock that evening, Roy Hillyer, a friend of the Arnold family, received a telephone call demanding \$53,000 ransom for the return of the children. Police were notified immediately and telephone surveillance was established.

Two subsequent calls were received on December 1 and December 2, 1973, one taken by Marjorie Arnold, the mother, and one by Linda Ellis, Keith Arnold's sister. Both calls demanded ransom in the same general amount. Linda Ellis later testified that the calls she received all seemed made by the same person.

As ordered, Roy Hillyer went to a specified public telephone booth on December 2, 1973,

where he received a call instructing him to deliver a bag with the ransom to an address on Griggs Street. The delivery was made with a dummy ransom bag. Meanwhile, police had established a surveillance at the telephone booth. After some moments, officers observed defendant Smith come to the booth, lift the receiver and look around. Testimony also placed defendant Holloway in the immediate area of the dummy drop at the same time.

On December 4, 1973, the Wayne County Sheriff's office reported finding the boys' bodies in two fields located in Romulus, Michigan. The boys had each been shot twice in the head from the same weapon. Neighbors reported hearing the shots the previous evening about 7 o'clock.

At trial, various prosecution witnesses placed all three defendants and the two kidnapped boys in the 14th Street apartment of Fannie Johnson, sister-in-law of defendant Gilmore, on the evening of December 1, 1973. The two boys remained there until December 3, 1973. At least one of the defendants was there at all times during this period. On the morning after the boys' bodies were discovered, police found defendant Gilmore at an apartment on Schaeffer Road and placed him under arrest. Defendant Smith was arrested on December 4, 1973 in the company of an acquaintance, Lucinda Prewitt. Defendant Holloway voluntarily surrendered himself to police on December 5, 1973.

On appeal, because the basic legal questions presented by defendants Gilmore, Smith and Holloway are very similar, we will attempt to discuss them together. Where distinct allegations are raised, we will address them separately.

Defendants Gilmore, Smith and Holloway all contend that reversible error occurred when the

trial court denied their pretrial motions for severance. We do not agree.

The decision whether to hold joint or separate trials is discretionary with the trial court. MCLA 768.5; MSA 28.1028.¹ *People v Hurst*, 396 Mich 1, 11; 238 NW2d 6 (1976). In moving the court for separate trial, defendant must "show that his substantial rights will be prejudiced by a joint trial". *People v Scott*, 61 Mich App 91, 94; 232 NW2d 315 (1975). See *People v Schram*, 378 Mich 145, 156; 142 NW2d 662 (1966). A supporting affidavit defining the inconsistencies between the defenses of the parties is required before an abuse of discretion will be found. *People v Mullane*, 256 Mich 54, 56; 239 NW 282 (1931).

No affidavits were attached to defendants' motions. Nor did the statements contained in defendants' motions adequately assert "the full scope of the antagonism between his and his co-defendant's defenses". *People v Markham*, 19 Mich App 616, 635; 173 NW2d 307 (1969). The only substantial claim made by defendants Gilmore and Smith is that they could not call their co-defendants to testify in a joint trial; and this claim is largely vitiated by decisions indicating that co-defendants, even if tried separately, cannot be compelled to testify against their will. *People v Merritt*, 396 Mich 67, 84, n 18; 238 NW2d 31 (1976); *People v Van Alstine*, 57 Mich 69, 82; 23 NW 594 (1885). In the same vein, authority exists to answer defendant Holloway's allegation that he was denied his right of confrontation in a joint trial where he was not allowed to cross-examine his co-defendants. *State v Moore*, 101 NW2d 579, 587 (ND, 1960). We

¹"When 2 or more defendants shall be jointly indicted for any criminal offense, they shall be tried separately or jointly, in the discretion of the court." MCLA 768.5; MSA 28.1028.

find no abuse in the trial court's denial of the respective motions.

Neither do we feel the trial court erred by failing to grant defendants Gilmore and Smith a separate trial *sua sponte* after the closing argument by defendant Holloway. *People v Rogers*, 39 Mich App 157, 161; 197 NW2d 292 (1972). Further, we do not even perceive how the remarks of defendant Holloway's counsel concerning Holloway's mental state, which counsel couched in biblical terms, could incriminate defendants Gilmore and Smith. *People v Hurst*, *supra* at 4.

Defendants Gilmore and Smith next contend the trial court abused its discretion by allowing rebuttal evidence that Gary Braceful, a person connected with the case, had been killed by the same gun used to kill the two boys.

Gary Braceful was mentioned frequently during the trial. He was present numerous times during the period the boys were being held at the 14th Street apartment. Defendant Gilmore's testimony clearly implicated Braceful as the sole party to the crime. Consequently, objection arose to police rebuttal indicating that the gun which killed Braceful was the same gun used to kill the two boys.

We feel the police testimony was proper rebuttal, not improper evidence of another crime. *People v Utter*, 217 Mich 74, 83; 185 NW 830 (1921). Therefore, we find no abuse of discretion. *People v Ames*, 60 Mich App 168, 172; 230 NW2d 360 (1975). See *People v Williams*, 386 Mich 565, 571-573; 194 NW2d 337 (1972). Evidence introduced by defendant Gilmore inculcating Braceful as the sole participant in the crime clearly justifies prosecution rebuttal. We also believe this testimony regarding the gun did not improperly inject another crime into the case where its relevancy as rebuttal

evidence was found by the trial court to outweigh its prejudicial effect.

Defendants Gilmore and Holloway argue next that the prosecution's summation was improper. We do not agree.

No objection to any of those comments made was raised at trial. In such circumstances, the remarks will not be reviewed unless the following obtains:

"The general rule in Michigan is that a defendant's failure to object to allegedly improper remarks made by the prosecutor during closing argument precludes appellate review unless it can be said that an objection and the appropriate curative instruction could not have eliminated the prejudice arising from the prosecutor's statements. *People v Tarpley*, 41 Mich App 227; 199 NW2d 839 (1972), *People v Humphreys*, 24 Mich App 411; 180 NW2d 328 (1970)." *People v McLendon*, 51 Mich App 543, 547; 215 NW2d 742 (1974).

Viewing the allegedly improper comments within the full context in which they were made, we feel the remarks were not so improper that they could not have been corrected by a curative instruction. *People v Scott*, 65 Mich App 657, 659-660; 237 NW2d 602 (1975). See *People v Blake*, 58 Mich App 685, 688; 228 NW2d 519 (1975). We decline to review them now.

Error is next alleged because the prosecution stated in summation that defendants' presence in court gave them opportunity to alter their testimony.

No objection was made to these comments. Consequently, under the standard applicable to determine whether we will review prejudicial remarks of prosecution in a closing argument, we find no basis to believe a curative instruction would not

have removed any error. *People v Scott*, *supra* at 659-660. We also note that this Court has found no error in argument by prosecution that a witness had an opportunity to fabricate. *People v Couch*, 49 Mich App 69, 72; 211 NW2d 250 (1973).

However, defendants maintain a constitutional violation of their right to be present at trial. *People v Montgomery*, 64 Mich App 101, 103; 235 NW2d 75 (1975). We feel the remark was inadvisable. However, in the full context of the summation, we believe the error was harmless. *People v Christensen*, 64 Mich App 23, 32-33; 235 NW2d 50 (1975). We decline to reverse on this ground.

Defendant Gilmore contends that the trial court erred in admitting voiceprints of the telephone calls demanding ransom and in limiting the jury's use of them. We disagree.

The evidence was not offered by the prosecution against defendant Gilmore but was solely limited to use against co-defendant Holloway. Therefore, we find defendant Gilmore has no standing to object to its admission. For our authority on this proposition, finding none in Michigan, we turn to the Federal courts. *United States v Rangel*, 488 F2d 871 (CA 5, 1974); *United States v Martinez*, 428 F2d 86, 89 (CA 6, (1970). However, we might mention that we do discuss the merits of the voiceprint's admissibility in response to objection by defendant Holloway and find them properly admitted.

As to whether the trial court correctly limited the jury in his charge to determining the credibility of the expert testimony regarding the voiceprint identification, we conclude again that neither defendant Gilmore nor defendant Smith have standing in the matter. *United States v Rangel*, *supra* at 872. In any case, we do not believe the

instruction deprived defendants of their right to a jury trial. The instruction was proper.

Defendant Gilmore argues that a search warrant issued for the 14th Street apartment was based on previous illegal activity.

The resolution of this question is entirely factual. Apparently, police early on in the investigation had obtained a tip from the secret witness program directing them to the 14th Street apartment. Officers went to the residence, and entered through an unlocked window when they received no response at the front door. However, testimony also indicated that the warrant subsequently issued was a totally distinct process, based on information given by one Jacquelin Wesley. The court carefully ascertained to its satisfaction that no connection between the two operations existed.

We will not second guess the trial court's estimate of witness credibility, which we feel determinative of this allegation. *People v Paille #2*, 383 Mich 621, 627; 178 NW2d 465 (1970). We find no abuse of discretion. We also note that defendant Holloway lacks standing to raise this question on appeal. *People v Scott*, 44 Mich App 462, 464; 205 NW2d 291 (1973). He had no possessory interest or control in the apartment.

Defendant Holloway argues that error occurred when the trial court admitted the preliminary examination testimony of Fannie Johnson, who claimed her privilege against self-incrimination at trial.

The record indicates that witness Johnson, though not offered immunity, had refused to testify at trial regardless. At preliminary examination, defendant Holloway thoroughly cross-examined the witness. Under these circumstances, the trial court was correct in ruling that she was

unavailable to testify and in admitting the preliminary examination testimony. *People v Pickett*, 339 Mich 294, 306-307; 63 NW2d 681 (1954). We find no error.

Defendant Holloway alleges next that the trial court improperly admitted voiceprint identification testimony of him where the exemplar of his voice was taken without *Miranda*² warnings.

We immediately note that voiceprints are admissible in Michigan. *People v Henderson*, 69 Mich App 418, 421; 245 NW2d 72 (1976); *People v Tobey*, 60 Mich App 420, 427-428; 231 NW2d 403 (1975).

What we hold here is that a voiceprint identification of a suspect already in custody is admissible regardless of whether prior *Miranda* warnings were given. Accord, *People v Smogoleski*, 14 Mich App 695, 700; 166 NW2d 14 (1968). To this end, we find no violation of defendant's Fifth Amendment privilege against self-incrimination by the admission of these voiceprints as identification evidence at trial. *People v Henderson*, *supra* at 427.

The voiceprint was used solely to measure the physical properties of defendant Holloway's voice, "and not for the testimonial or communicative content of what was to be said". *People v Tobey*, *supra*, at 428. We do not believe *Miranda* applies in this context. *People v Smogoleski*, *supra* at 700. We find no error.

Error is next assigned to the trial court's decision to allow the prosecution to reopen its case after defendant Holloway had begun his case in order to secure testimony of a previously unavailable witness.

Ample authority can be found for the proposition that the trial court may "reopen a case for

²*Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694; 10 1974 (1966).

the purpose of admitting testimony in behalf of either the prosecution or the defense". *People v Baker*, 332 Mich 320, 324; 51 NW2d 240 (1952). See *People v Cissom*, 39 Mich App 80, 81-82; 197 NW2d 282 (1972).

Where proof existed that the witness was a res gestae witness who had only recently returned to the jurisdiction, we can find no abuse of discretion in the court's decision.

Lastly, defendant Holloway contends that insufficient evidence existed to support the verdict. We do not agree.

In testing whether sufficient evidence exists, this Court recently stated the following standard:

"A challenge to the sufficiency of the evidence is measured by the following test—the evidence is insufficient if it could not support a finding of guilty beyond a reasonable doubt because one or more of the essential elements of the crime is not proved. *People v Kremko*, 52 Mich App 565, 574; 218 NW2d 112 (1974)." *People v Smith*, 68 Mich App 551, 555; 243 NW2d 681 (1976) (M. J. KELLY, J., dissenting).

The defendant was charged with kidnapping and felony murder. The required proof for felony murder in this case was that the murder was perpetrated in the commission of a kidnapping. We find the following record evidence to support this charge:

(1) the defendant's voice was identified as the one that was on the tape of the ransom call by a person that heard the ransom call;

(2) the defendant was acquainted with the Arnold family;

(3) the defendant was observed by the police in the vicinity of the ransom;

(4) Miss Payne testified that the defendant told her that he would come into some big money;

(5) the defendant, who was present in the 14th Street apartment with the two boys, ordered Miss Payne to stop talking to them, even in the absence of the other two defendants;

(6) Miss Payne testified that defendant had a gun in his hand while she was in the apartment;

(7) defendant asked Miss Payne if she believed in kidnapping;

(8) defendant told Miss Payne that he told them not to do it and that the little boys asked for his help;

(9) on the evening the little boys disappeared defendant left the apartment with his co-defendant and returned there with the little boys; and

(10) defendant left the apartment with his co-defendants and the little boys on the night of the murder.

We believe these facts clearly sustain the jury verdict and show more than defendant Holloway's "mere presence" during the crime. Therefore, we find no error.

Having reviewed all the alleged errors and having discussed those we consider of merit, we find no grounds to reverse the proceedings below.

Affirmed.

GULYAS V GULYAS. (Docket No. 59706.) Leave to appeal denied November 23, 1977. *Lippitt, Harrison, Perlove, Friedman & Zack* for plaintiff-appellant. Reported below: 75 Mich App 138.

JACKSON COUNTY JUVENILE COURT V FRATERNAL ORDER OF POLICE, LEONARD CAREY LODGE No 70. (Docket No. 59907.) Leave to appeal denied November 23, 1977. *Edward L. Cobb* for plaintiff-appellee. *Susskind & Hedstrom, P.C.*, for defendant-appellee. *Zwerdling & Maurer* for intervenor-appellant Michigan Council No. 11, AFSCME, AFL-CIO. Case below, Court of Appeals No. 30931, order of May 10, 1977.

STOCKLER V DEPARTMENT OF TREASURY. (Docket No. 59908.) Leave to appeal denied November 23, 1977. *Lawrence J. Stockler, in propria persona*, plaintiff-appellant. *Frank J. Kelley*, Attorney General, *Robert A. Derengoski*, Solicitor General, and *Richard R. Roesch* and *Lawrence W. Morgan*, Assistants Attorney General, for defendants-appellees. Reported below: 75 Mich App 640.

PLACEK V CITY OF STERLING HEIGHTS. (Docket No. 59710.) Leave to appeal granted November 23, 1977, limited to the following issues: (1) whether the court's instruction as to plaintiff's duty of due care was prejudicially erroneous; (2) whether reasonable minds can differ as to officer Ernst's negligence; and (3) whether a comparative negligence standard be adopted? Plaintiffs-appellants shall file their brief and appendix in conformity with GCR 1963, 855 and 857 on or before February 9, 1978 and defendants-appellees shall file their brief within 60 days after filing and service of plaintiffs' brief and appendix. Persons or groups interested in the determination of these questions may apply to the Court for permission to file briefs amicus curiae. *Lopatin, Miller, Bindes, Freedman & Bluestone* for plaintiffs-appellants. *Coticchio, Zotter & Sullivan, P.C.*, for defendants-appellees. Case below, Court of Appeals No. 24667, memorandum opinion of April 13, 1977.

PEOPLE V NEWMAYER. (Docket No. 59093.) Plaintiff-appellant's application for leave to appeal having been ordered held in abeyance pending decision in *People v Llewellyn*, and said decision having been issued on October 6, 1977, 401 Mich 314, now, therefore, the application is granted November 23, 1977, limited to the following issue: whether MCLA 750.343a; MSA 28.575(1) violates US Const, Am I or Const 1963, art 1, § 5. Persons or groups interested in the determina-

tion of this question may apply to the Court for permission to file briefs amicus curiae. *Frank J. Kelley*, Attorney General, *Robert A. Derengoski*, Solicitor General, *L. Brooks Patterson*, Prosecuting Attorney, *Robert C. Williams*, Chief Appellate Counsel, and *James L. McCarthy*, Assistant Appellate Counsel, for the people, appellant. Case below, Court of Appeals No. 29614, order of October 22, 1976.

PEOPLE V BYRON SMITH, PEOPLE V HOLLOWAY, and PEOPLE V GILMORE. (Docket No. 59367.) Leave to appeal denied November 23, 1977. *Frank J. Kelley*, Attorney General, *Robert A. Derengoski*, Solicitor General, *William L. Cahalan*, Prosecuting Attorney, *Edward Reilly Wilson*, Research, Training and Appeals, and *Robert M. Morgan*, Assistant Prosecuting Attorney, for the people. *Carl Ziemba* for defendant-appellant Geary Gilmore. Reported below: 73 Mich App 463.

PEOPLE V CROWN. (Docket Nos. 59690, 59875.) Leave to appeal, leave to cross-appeal, and delayed application for leave to appeal denied November 23, 1977. *Frank J. Kelley*, Attorney General, *Robert A. Derengoski*, Solicitor General, *Peter D. Houk*, Prosecuting Attorney, and *Lee Wm. Atkinson*, Chief Appellate Attorney, for the people, appellant. State Appellate Defender for defendant-appellee-cross-appellant. Reported below: 75 Mich App 206.

SMITH V KELSEY-HAYES COMPANY. (Docket No. 59925.) Leave to appeal granted November 23, 1977, limited to the following issues: (1) whether the Workmen's Compensation Appeal Board erred in finding that plaintiff-appellant failed to give timely notice of injury pursuant to the Worker's Disability Compensation Act; (2) whether an employee's failure to comply with the notice requirements of the Worker's Disability Compensation Act requires dismissal of his claim without a showing by the employer of prejudice due to the employee's failure to timely file notice of injury. *Sablich, Ryan, Dudley & Rapaport, P.C.*, for plaintiff-appellant. *Lacey & Jones* for defendant-appellee. Case below, Court of Appeals No. 77-1463 (On Remand), order of June 6, 1977.

CONTEMPT OF RICE (PEOPLE V CURTIS LEE CLARK and PEOPLE V SHEERMAN CLARK). (Docket No. 60049.) Leave to appeal considered November 23, 1977 and, pursuant to GCR 1963, 853.2(4), the decision of the Court of Appeals is reversed and the judgment of contempt entered by the Recorder's Court for the City of Detroit is hereby reinstated and the matter is remanded for execution of sentence. Contemnor's conduct involved misbehavior in the presence of the

August 30, 2024

Geary Gilmore #138763
Muskegon Correctional Facility
2400 S. Sheridan Dr.
Muskegon, MI 49442

Michigan Department of Corrections
Office of the Parole Board
Pardons and Commutations Coordinator
Post Office Box 30003
Lansing, Michigan 48909

Re: Geary Gilmore #138763: Application for Commutation of Sentence

Dear Parole Board Members:

I respectfully submit the attached Application for Commutation of Sentence for your consideration. It is my prayer that after reading it you will conduct an interview, determine that my case merits a public hearing, and after the public hearing send my case to the Governor with a recommendation that a commutation be granted.

On July 29, 1974, I was convicted, along with Jerome Holloway and Byron Smith, of First Degree Felony Murder for my participation in the Kidnapping and murder of Gerald Craft (8) and Keith Arnold (6). I fully participated in their kidnapping, but I was completely opposed to their murders. However, I take full responsibility for their murders as if I pulled the trigger myself. I am truly sorry for what I have done and for the pain and anguish I have caused the Craft and Arnold families. I will always regret my involvement in this crime and live my life atoning for the wrong I have done. Through God's grace and mercy I have received His forgiveness. I ask this Parole Board to find it in their hearts to have mercy on me as well.

I am no longer a menace to society. With the help of many therapeutic, academic and spiritual programs I have transformed my character. I am no longer a criminal who preys on people for money and material possessions. I am a Christian who treats and respects all people the way I want to be treated and respected. I will be an asset to society upon my release and I have a robust support system to ensure my successful reintegration into society. As a graduate of Calvin University's Calvin Prison Initiative, upon release I would have access to the support of the Calvin University community in Grand Rapids MI, and the services of the Career Center and Alumni Association to assist me in finding employment, housing and mentoring. As a current tutor for Hope-Western Prison Education Program, sponsored by Hope College and Western Theological Seminary in Holland MI, I would also have access to the services and support systems they provide to their students who are paroled.

Thank you for your mercy.

Sincerely,

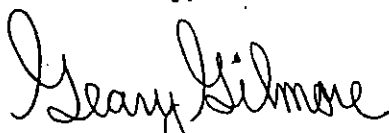

Geary Gilmore

Exhibit B: 9a

**MICHIGAN DEPARTMENT OF CORRECTIONS
OFFICE OF THE PAROLE BOARD**

**APPLICATION FOR PARDON OR COMMUTATION OF SENTENCE
(CURRENT MICHIGAN PRISONERS ONLY)**

I hereby petition, as provided by law, for a pardon or commutation of sentence for the following conviction(s) in the state of Michigan and submit the following information in support of this petition:

1. Name: Geary Lind Gilmore Number: 138763 Location: MCF

Date of Birth: 11-7-52 U.S. Citizen? Yes X No

2. Michigan conviction(s) for which you are requesting a pardon or commutation of sentence:

Crime Title and Type (Misdemeanor or Felony)	Date	Count and Location	Judge	Sentence
1. First Degree Felony Murder; MCL 750.316	7-29-74	Wayne County Circuit Ct. Detroit, MI	James N. Canham	Non-Parolable Life
2. First Degree Felony Murder; MCL 750.316	7-29-74	Wayne County Circuit Ct. Detroit, MI	James N. Canham	Non-Parolable Life
3.				
4.				

3. Briefly describe the circumstances of the crime(s) for which you are requesting a pardon or commutation:

On December 1, 1973, myself, and Codefendants Jerome Holloway and Byron Smith kidnapped Gerald Craft (8) and Keith Arnold (6) while they were playing outside their homes in Detroit. We took them to my apartment on 14th Street in Detroit where they remained for three days. Smith made several phone calls to the Arnold home demanding \$53,000 ransom for their return. After the ransom was not paid I told Holloway that we had to return children home but he protested. He said he could not return them because Keith Arnold knew him, he was on parole and he did not want to go back to prison. On December 3, 1973, Holloway directed Smith to drive to a dark road in Romulus, Michigan where Holloway shot and killed both Gerald and Keith. (Continued on page 3)

4. Provide a brief statement explaining why are you requesting a pardon or commutation:

At the onset of this crime I believed Keith Arnold and Gerald Craft would be returned home safely. I fully participated in the kidnapping of Keith and Gerald and the ransom demands, but I was completely opposed to their murders and consistently voiced my opposition. I was, and continue to be, totally devastated when my efforts failed and they were killed. In hindsight, I clearly see how cowardly and depraved I was and what I could have done - and should have done - to save them. I truly regret the choices I made. My heart grieves deeply whenever I think about Gerald and Keith and the indescribable pain and anguish I have caused their families. The intensity of pain and anguish they have endured over the tragic loss of their children reaches a depth of sorrow that can never be overcome and I will share in their sorrow for the rest of my life. (Continued on page 4)

5. Provide a brief statement explaining why you should be granted a pardon or commutation:

I am no longer a menace to society. I have abandoned all of my criminal and antisocial values and beliefs. I am a religious, conscientious, and kindhearted man, who realizes my connection with all humanity and my duty to respect all people and their property as I want to be respected. I will never harm another human being, or stand by and allow another person to be harmed without doing whatever I can to help them. I will live the rest of my life atoning for what I have done. I will never be involved in criminal behavior again. I will be an asset to society. (Continued on page 5).

6. What are your home and job placement plans in the event you are released?

I will attend Calvin University in Grand Rapids, MI, to get a Masters Degree in Counseling. Calvin University's Career Center and Alumni Association will provide support and resources to assist me in obtaining employment, housing, and mentoring. (Contact: tvc2@calvin.edu or 616-526-7998). I will also have financial and logistical support of fiancée Evelene Robinson, in Westland, MI. 734-890-7976

SIGNATURE MUST BE NOTARIZED EXCEPT IF SUBMITTED BY A PRISONER

Note: If this Application is not signed by the applicant personally, it is signed by _____ (Name)

_____, for the following reason: _____
(Relationship)

Submitted by: Gary Gilmore
(Signature)

Date: August 30, 2024

Notary:

On this _____ day of _____, the petitioner, _____ personally appeared before me, known to me to the person who signed the foregoing petition, and who made an oath that he had read the foregoing application by him subscribed and knew the contents thereof to be true of his own knowledge, except those matters therein stated to be on information or belief, and as to those matters he believe to be true.

Notary Public

County State

My Commission Expires on _____

IF SUBMITTED BY PRISONER, STAFF MUST VERIFY PRISONER'S IDENTITY BELOW

R. K.
Staff Signature

Classification Director
Staff Title/Classification

8/30/2024
Date

INSTRUCTIONS:

1. Submit the application and any supporting documentation. The Application must have the signature of the applicant (or the person applying for the applicant) and, unless the applicant is a prisoner, the Notary's stamp and signature.
2. Complete all items and questions fully, using additional sheets as necessary.
3. Mail the Application and supporting documentation to:
Michigan Department of Corrections
Office of the Parole Board
Pardons and Commutations Coordinator
Post Office Box 30003
Lansing, Michigan 48909

4. Provide a brief statement explaining why are you requesting a pardon or commutation:

(Continued from page 1)

My sincere remorse and repentance for who I was and for what I have done has instilled in me a passion for atonement that has set me on a path of redemption by devoting my life to making up for all the wrong I have done and being a force for good in the world. In order to change my criminal thinking and behavior, I had to first understand how I adopted the values and beliefs that guided them. I dissected, examined, and analyzed the origin of the person I was who engaged in antisocial criminal activities. Then I was able to root them out and replace them with moral values and beliefs that now guide my thinking and behavior. The following is a summary of the person I was and the person I am today who is requesting a commutation:

In the 1960s, I was a poor, maladjusted inner-city child with no self-esteem or positive role models to emulate. My father and I never had a meaningful conversation about anything. He was both present and not present at the same time. My mother, who was a preacher's daughter, believed that taking me to church to hear the Pastor's sermons was sufficient to guide me on the right path. Unfortunately, the people who most influenced my thinking and behavior were pimps, drug dealers, and criminals in the neighborhood. They had the fine clothes, big cars, women and were always having fun. They were the people who I admired and who were held in the highest esteem by my peers and I wanted to be like them. I deliberately sought out their company and adopted their values, beliefs and worldview. My immoral values and distorted beliefs about life and my relationship and responsibility to others caused me to foolishly value money and material possessions above the welfare of people. I became a criminal who stole and robbed people of their money and material possessions.

In 1971, I married Victoria Johnson, a child (she was 16 and I was 18) who was 8 months pregnant with our second child. Most of her family and extended family were drug users, drug dealers, pimps, prostitutes and thieves, which reinforced my criminal values and beliefs. Since all kinds of illegal behavior was normal and socially acceptable in the criminal subculture of which I was a part, I lived the life of a criminal. After a couple of years of selling illegal drugs, I got involved in the present crime that landed me in prison.

While in prison, I engaged in many therapeutic, vocational, academic and religious programs over the past 50 years that exposed me to the right way to live and what good, pro-social values and beliefs were. These programs have helped me to address my criminal values and beliefs. Decades of honest self-examination and soul-searching led me to a clear understanding of who I was and what I have done. This realization consumed me with so much guilt and self-condemnation that I had to change who I was in order to live with myself. I made a conscious decision to change my life and do the right thing because it is the right thing to do.

In 2003, I formed relationship with God. I gave my life to the Lord Jesus Christ and asked Him to change my heart and mind to conform to His Will. He has provided me with opportunities to learn and grow and be transformed from a criminal with malicious thoughts and behaviors into a man who thinks and behaves righteously as a Christian. The person I was who acted impulsively on criminal thoughts and values has been completely transformed into a conscientious man who no longer values money and material possessions more than people and relationships. I will never again harm another person or covet their property. I believe that all human beings are created in the image of God and have the right to be treated with dignity and respect. As a Christian, I am obligated and committed to love God and others as I love myself. With God's help, I will remain true to my commitment.

3. Briefly describe the circumstances of the crime(s) for which you are requesting a pardon or commutation.

(Continued from page 1)

Although my recital of the background and circumstances that led up to this crime makes it appear as if I was not as culpable as Holloway, I accept full and complete responsibility for the murders of Keith Arnold and Gerald Craft, and I am equally guilty as Holloway as if I pulled the trigger myself. I know that if I had not did what I did, then Keith and Gerald would not have been killed.

Jerome Holloway's Mother, Mary Hunter, worked as a "Bookie" for Margie Arnold and Roy Hilliar's "Numbers" business. Occasionally, many of the Bookies in the business would gather to play poker at Ms. Hunters house. On Saturday, December 1, 1973, Jerome Holloway came to my apartment and told me and Byron Smith that Ms. Arnold had won \$50,000 - \$60,000, at a poker game the night before. Together we came up with a plan to rob her. We went to her house to commit the robbery, but before we could get to her house, she came out in a hurry and got into her car and drove off. While we were waiting on Ms. Arnold to return, some children came out of the house and went around the corner. Holloway identified the little boy as Ms. Arnold's Son Keith. We then discussed the idea of kidnapping Keith and asking Ms. Arnold for a ransom of \$50,000. The plan was to get Keith, ride around with him until we made contact with Ms. Arnold, get the money and return Keith home. Once Ms. Arnold learned that Keith had been riding around with Holloway and two other guys that Keith did not know, Holloway was going to tell her that the plan to Kidnap Keith was ours (Smith and myself) and he (Holloway) was forced to comply with our plan. When we went around the corner to get Keith, he was playing with Gerald Craft so we took both of them.

After several unsuccessful attempts to contact Ms. Arnold, we took Keith and Gerald to my apartment on 14th Street in Detroit. Holloway stayed in the apartment with Keith and Gerald, while I went with Smith to make the ransom calls. Eventually, the Detroit Police Department got involved and set up a stakeout and dummy ransom drop. After Smith and I eluded the police stakeout of the dummy ransom drop, we returned to the apartment to inform Holloway of what happened. The next day, we discussed taking Keith and Gerald back home. Holloway did not want to return them home, explaining that he was the only person that Keith knew (Gerald did not know any of us) and since he (Holloway) was on parole, once Keith identified him, he would be sent back to prison. I continued trying to convince Holloway that our original story about him being forced to kidnap Keith would save him. He was not convinced and wanted time to think about it. Later, Holloway became adamant that he needed to kill Keith and Gerald to prevent them from identifying him. I continued to protest and came to believe that we were going to return Keith and Gerald home safely.

When we got into the car to take Keith and Gerald home, Holloway had a change of heart and was insistent that he had to kill them. Holloway directed Smith to drive to a dark road in Romulus, Michigan. He took Gerald and told Smith to get Keith and they exited the car and went into the darkness. I heard 5-6 shots, saw Smith walked speedily back to the car and he said, "That mutha---- was going to shoot me!" Seconds later, Holloway appeared holding Keith in one hand and a gun in the other. He got back into the car and told Smith to drive, while he reloaded him gun. Holloway told Smith to pull over at another dark spot and before he got out of the car with Keith I pleaded with him again not to do it. He threatened to kill me too if I continued to interfere, so I did not say another word. Holloway took Keith into the darkness and shot him. He got back into the car and we went back to my apartment in silence.

5. Provide a brief statement explaining why you should be granted a pardon or commutation:

(Continued from page 2))

I will continue to be the altruistic helper in society that I am in prison. My years of participation and training in cognitive restructuring programs have helped me to understand and promote pro-social values and beliefs in the prison community. This quality will ensure my successful reentry into society. Through programs like Shakespeare Behind Bars, 40-Days of Peace, Group Spiritual Direction, and Mediation Training, I have helped other prisoners examine their values and beliefs and to understand how they influence their behavior. The reduction of violence among prisoners confined at E. C. Brooks Correctional Facility between 2014 and 2018, and the decrease in recidivism upon their release, can be partly credited to my participation and influence in those programs that helped them change.

In May 2018, I completed The Urban Ministry Institute (TUMI), a three and a half year program sponsored by Prison Fellowship, where I learned how to be a leader in the urban church to advance the Kingdom of God. I received a Certificate in Christian Leadership Studies that is accepted by some church denominations as the educational requirement for ordination. I also completed a Spiritual Directions Practicum, a two-year training in the ability to listen to, encourage, and challenge others to achieve a greater awareness of God's action and call in their lives. I am especially gifted in this area because developing spiritual awareness was foundational to my transformation from criminal to Christian.

In May 2023, I graduated from Calvin University's Calvin Prison Initiative (CPI), with a Bachelors Degree in Faith and Community Leadership, which further equipped me to "think deeply, act justly and live wholeheartedly as Christ's agent of renewal in the world." This educational/religious experience opened my eyes to God's work and presence in the world and how He can use people like me, with horrible histories, as instruments to achieve His purpose. I truly believe that God is using me to do His work and preparing me for even greater things.

I am now serving as a tutor for Hope-Western Prison Education Program (HWPEP), a four-year college program sponsored by Hope College and Western Theological Seminary. I help students who are striving to earn a Bachelors Degree in Faith, Leadership and Service. Here, I am using everything I have learned to encourage others to recognize their talents and use them to make the world a better place. If I am blessed to be granted a commutation, I will continue doing my part to make the world a better place by being a positive, productive, law-abiding member of society.

EDUCATIONAL & VOCATIONAL TRAINING

- ☆ General Educational Development, 1976;
- ☆ Custodial Maintenance Technician, 1985.
- ☆ Associates Degree in General Studies, Jackson Community College, 1986.
- ☆ Apprentice Substance Abuse Counselor, Western Michigan University, 1986.
- ☆ Legal Assistant, Jackson Community College, 1988
- ☆ Literacy Tutor, Adrian Public Library, 1990
- ☆ Substance Abuse of Specific Populations, Western Michigan University, 1995
- ☆ Building Trades Curriculum, Questech, Inc., 1997
- ☆ Blood-Borne Pathogens & Blood Spill Cleanup, TPC Training Systems, 1997
- ☆ Horticulture Core, Lake Superior Vocational Institute, 2000
- ☆ Vocational Food Technology, Macomb Correctional Facility, 2003
- ☆ Lifeskills Group Facilitator, American Community Corrections Institute (ACCI), 2006
- ☆ Certified Civil Mediator, Mediation & Restorative Services, 2014
- ☆ Certified Spiritual Director, Center for Healing and Transformation, Zion Lutheran Church, 2014-2016
- ☆ Christian Leadership Studies, The Urban Ministry Institute (TUMI), Brooks Correctional Facility, 2015-2018
- ☆ Associates Degree, Faith & Community Leadership, Calvin University, 2020
- ☆ Bachelors Degree, Faith & Community Leadership, Calvin University, 2023

INSTITUTIONAL WORK EXPERIENCE

- ☆ Food Service Utility Man, Huron Valley Men's Facility, 1981-1982
- ☆ Associate Editor Prison Newspaper, Huron Valley Men's Facility, 1982-1984
- ☆ Special Activities Clerk, Southern Michigan Prison, Northside, 1984-1986
- ☆ General Maintenance Forman/Worker, Jackson Temporary Facility, 1986-1988
- ☆ Law Library Clerk, Chippewa Temporary Facility, 1988-1990
- ☆ Academic Tutor/Clerk, Adrian Temporary Facility, 1990-1994
- ☆ Teacher's Aide/Tutor, Mound Correctional Facility, 1994
- ☆ Substance Abuse Education Clerk/Tutor, Mound Correctional Facility, 1995-1998
- ☆ Law Library Clerk, Mound Correctional Facility, 1998-2000
- ☆ Law Library Clerk, Kinross Correctional Facility, 2000-2001
- ☆ Programs Clerk, Macomb Correctional Facility, 2001-2003
- ☆ Law Library Clerk, Macomb Correctional Facility, 2003-2008
- ☆ Porter/Paperman, Muskegon Correctional Facility, 2008-2009
- ☆ Law Library Clerk, E.C. Brooks Correctional Facility, 2010-2018
- ☆ Tutor/Teacher's Aide, Hope-Western Prison Education Program (HWPEP), Muskegon Correctional Facility, 2023-Present

PROGRAMMING & CERTIFICATIONS

- ☆ Alcohol Anonymous, Charles Engler Facility, 1986
- ☆ Narcotics Anonymous, Charles Engler Facility, 1986
- ☆ Certified Literacy Tutor, Adrian Public Library, Adrian, MI 1990
- ☆ Parents as Partners in Reading, Adrian Temporary Facility, 1991
- ☆ Sexually transmitted Diseases, Adrian Temporary Facility, 1991
- ☆ African-American Studies, Adrian Temporary Facility, 1992
- ☆ Fundamentals of Nutrition, Adrian Learning Center, 1993
- ☆ Substance Abuse Education Program, Mound Correctional Facility, 1994
- ☆ Alcohol and Substance Abuse Education Program, Mound Correctional Facility, 1995
- ☆ Substance Abuse Relapse Prevention, Oakwood Hospital Heritage Center, 1996
- ☆ Biblical Conflict Resolution, Christian Conciliation Service of Southeastern Michigan, 2002
- ☆ Conflict Resolution, Macomb Correctional Facility, 2003

- ☆ Cognitive Restructuring, Macomb Correctional Facility, 2004
- ☆ CO-Facilitator Conflict Resolution, Macomb Correctional Facility, 2004-2008
- ☆ Anger Management, Macomb Correctional Facility, 2005
- ☆ CO-Facilitator for Anger Management Program, Macomb Correctional Facility, 2005-2007
- ☆ Lifeskills Facilitator Training, Michigan Prisoner Reentry Initiative (MPRI), Macomb Correctional Facility, 2005
- ☆ Michigan Prisoner Reentry (MPRI), Pre-Release Program, Macomb Correctional Facility, 2005
- ☆ CO-Facilitator for Michigan Prisoner Reentry Initiative (MPRI), Pre-Release Program, Macomb Correctional Facility, 2005-2007.
- ☆ Life Skills Facilitator Training, American Community Corrections Institute (ACCI), Macomb Correctional Facility, 2006
- ☆ Certified Lifeskills Group Facilitator, American Community Corrections Institute, Macomb Correctional Facility, 2006-2008
- ☆ Substance Abuse Education Group, Macomb Correctional Facility, 2005
- ☆ CO-Facilitator Phase I Substance Abuse, Macomb Correctional Facility, 2005
- ☆ Cognitive Restructuring, Macomb Correctional Facility, 2004
- ☆ CO-Facilitator Cognitive Restructuring 100 Hour Class, Macomb Correctional Facility, 2005
- ☆ CO-Facilitator Cognitive Restructuring 200 Hour Class, Macomb Correctional Facility, 2006
- ☆ Relationships, Macomb Correctional Facility, 2005
- ☆ Responsible Fatherhood Parenting Program, Macomb Correctional Facility, 2007
- ☆ Communication Skills, Critical Thinking, Conflict Resolution, & Mediation Training, Chance For Life, Macomb Correctional Facility, 2008
- ☆ Legal Research Independent Study Course, Muskegon Correctional Facility, 2009
- ☆ Financial Survival, Independent Study Course, Muskegon Correctional Facility, 2009
- ☆ Facilitator Conflict Resolution, Muskegon Correctional Facility, 2009
- ☆ CO-Facilitator, DADS: Ex-Offenders Talk About Fatherhood, Muskegon Correctional Facility, 2009
- ☆ Facilitator Conflict Resolution, Muskegon Correctional Facility, 2009
- ☆ Shakespeare Behind Bars, E.C. Brooks Correctional Facility, 2010-2018
- ☆ Power of Peace Project, E.C. Brooks Correctional Facility, 2014
- ☆ Power of Peace Project "Digging Deeper," E.C. Brooks Correctional Facility, 2014
- ☆ Facilitator Forty Days of Peace, E.C. Brooks Correctional Facility, 2014-2015
- ☆ Forty Days of Freedom, E.C. Brooks Correctional Facility, 2014
- ☆ Christian Leadership Studies, The Urban Ministry Institute (TUMI), (15 sixteen-week lessons: Bible Interpretation; Conversion and Calling; The Kingdom of God; Theology of the Church; Foundations for Christian Mission; God the Father; Foundations of Christian Leadership; Evangelism and Spiritual Warfare; The Old Testament Witness to Christ and His Kingdom; God the Son; Practicing Christian Leadership; Focus on Reproduction; The New Testament Witness to Christ and His Kingdom; God the Holy Spirit; and Doing Justice and Loving Mercy: Compassion Ministries), E.C. Brooks Correctional Facility, 2015-2018
- ☆ 33 The Series, Vol. 1: A Man and His Design, Forest Park Covenant Church, Muskegon, MI, Fall 2017
- ☆ 33 The Series, Vol. 2: A Man and His Story, Forest Park Covenant Church, Muskegon, MI, Fall 2017
- ☆ 33 The Series, Vol. 3: A Man and His Traps, Forest Park Covenant Church, Muskegon, MI, Winter 2017
- ☆ Not a Fan, Forest Park Covenant Church, Muskegon, MI, Winter 2018
- ☆ Assertive Living, Corrections Mental Health Program, E.C. Brooks Correctional Facility, 2018
- ☆ Assaultive Offender Victim Empathy, Corrections Mental Health Program, E.C. Brooks Correctional Facility, 2018
- ☆ Me/You and Boundaries, Corrections Mental Health Program, E.C. Brooks Correctional Facility, 2018
- ☆ Commitment to Change, Corrections Mental Health Program, E.C. Brooks Correctional Facility, 2018
- ☆ Certificate in Faith & Community Leadership, Calvin University, 2019
- ☆ Streets Don't Love You Back, Muskegon Correctional Facility, 2024

"Tell me and I forget. Teach me and I remember.
Involve me and I learn." - Benjamin Franklin

Good luck sir

gm



MICHIGAN SENATE
ARK E. HUIZENGA
STATE SENATOR
30TH DISTRICT

APPROPRIATIONS SUBCOMMITTEES:
DEPARTMENT OF HEALTH AND
HUMAN SERVICES
DEPARTMENT OF LABOR AND ECONOMIC
OPPORTUNITY/MICHIGAN ECONOMIC
DEVELOPMENT CORPORATION

Michigan Department of Corrections
Office of the Parole Board
Pardons and Commutations Director
PO Box 30003
Lansing MI 48909

To whom it may concern:

It is rare that I would write a letter requesting the commutation of a prisoner, however, I have made an exception in this case.

Over the years, I have had the occasion to meet with Mr. Gilmore, I have received confirmation from leadership from the Calvin Prison initiative on his leadership and exemplary performance as a student and have confirmation of his record of good behavior. Mr. Gilmore Graduation from the Calvin Prison Initiative program and now works at the Muskegon Correctional Facility where he serves as a tutor and teaching assistant for the Hope-Western Prison Education program.

Mr. Gilmore has ben convicted of horrible acts; however, I believe that his nearly fifty years of imprisonment with good behavior should provide ample evidence for his candidacy for communication.

Sincerely,

Mark E. Huizenga

✓CC: Geary Gilmore

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November 21, 2014

Michigan Parole Board
Box 30003
Lansing MI 48909

This recommendation for commutation comes in favor of Geary Gilmore, #138763, currently housed at Muskegon Correctional Facility in Muskegon, Michigan.

As a Pastor for sixty-four years, I first became involved in prison ministry alongside my regular congregational ministry fifty-four years ago. I have come to know many men, and a few women, behind bars. I have learned to listen carefully, to observe closely, to respond slowly, and to look for two crucial components: a repentant heart and a sincerely teachable attitude.

Geary Gilmore possesses both of those aspects of rehabilitation. I have known him regularly and closely for over five years. From all of my experience I believe he is ready for commutation and release. This is not only because of his personal progress but also because a strong base of personal care has been formed for him, including personal supervision, religious instruction, and employment and housing. There is a personal care team waiting for him when he is released.

The purpose of incarceration is not only penal but also rehabilitative as well. Geary Gilmore has served fifty years of incarceration towards payment for his crime. His behavioral record and his progression through various instructions show that he is not threat to society when he is released. His quiet and effective leadership among the men indicates a meaningful transformation. Because Geary Gilmore meets both criteria, I am personally asking you to commute his sentence. Geary will be a contributor to society.

I am including personal information, should you wish to contact me directly.;

Thank you for your consideration,

R. O. Broekhuizen, Pastor (Ret.)
Holland MI
616.283.2714

c. Gov. Gretchen Whitmer

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Shakespeare BEHIND BARS

www.shakespearebehindbars.org

PO Box 33293 | Louisville, KY 40232-3293 | info@shakespearebehindbars.org

October 30, 2024

Governor Gretchen Whitmer:

This letter is to recommend **Geary Gilmore #138763** for a commutation.

Mr. Gilmore was a founder and long-time core member of the Shakespeare Behind Bars program at the Earnest C. Brooks Correctional Facility in Muskegon Heights, MI.

During his tenure with Shakespeare Behind Bars, Mr. Gilmore revealed insightful leadership, critical thinking, thoughtful listening, deep caring, detailed reflection upon his previous way of thinking. He personally takes full responsibility for his previous criminal behavior, and has heartfelt remorse and grief for his past actions that led him to his life of incarceration.

Mr. Gilmore manifested his transformation in positive actions that provided a positive role model and a fatherly mentorship to the younger members of the ever widening reach of the Shakespeare Behind Bars across the state of Michigan.

While incarcerated, Mr. Gilmore expanded his education by completing many opportunities offered by the MI DOC as well as other external programs. Most notably, he is a graduate of the Calvin Prison Initiative: Education for Transformation. This highly selective and competitive program is a partnership between Calvin University and Calvin Theological Seminary, the Calvin Prison Initiative (CPI) is a unique program that provides a Christian liberal arts education to inmates at the Richard A. Handlon Correctional Facility in Ionia, MI. This five-year program results in a bachelor of arts degree from Calvin University in Faith and Community Leadership. CPI brings hope, dignity, and the opportunity for real accomplishment.

Currently, Mr. Gilmore is a tutor with the Hope-Western Prison Education Program (a cooperative program between Hope College and Western Theological Seminary) at the Muskegon Correctional Facility.

Having served forty-eight years for his crimes, I believe Mr. Gilmore is an outstanding candidate for a commutation.

I believe Mr. Gilmore is no threat to society. He has family who love him and will provide him housing accommodations, as well as the financial, moral, and logistical assistance necessary for him to successfully reintegrate into society.

If given the gift of freedom, I believe Mr. Gilmore will live a meaning-filled life in the circle of his family, his friends, his neighborhood, his community, and society at-large. His education goal is to seek his Masters Arts Degree in Counseling so that he can help others.

If you have questions regarding Mr. Gilmore, please contact me directly.

Kindest Regards


Curt L. Tofteland

Founder & Producing Director

Shakespeare Behind Bars

616.402.6281

curt@shakespearebehindbars.org

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THE HOPE-WESTERN PRISON EDUCATION PROGRAM

June 12, 2024

To Whom It May Concern,

Mr. Geary Gilmore (138763) was transferred to Muskegon Correctional Facility in July 2023 to serve as a tutor for the Hope-Western Prison Education Program. Mr. Gilmore was one of a number of Calvin Prison Initiative alumni who, after earning their BA degrees at Handlon Correctional Facility, transferred to various MDOC facilities to use their college education in the service of others.

Mr. Gilmore's tutoring responsibilities include the following, excerpted from the HWPEP Tutor Handbook:

- Encouraging, maintaining, and building a culture that encourages intellectual, personal, social, physical, and spiritual development for HWPEP students. This is expected in personal modeling, conversation, and mentoring relationships.
- Upholding the highest standards of behavior consistent with the mission, vision, and purposes of the Hope-Western Prison Education Program.
- Engaging in continuing education through participation in HWPEP courses as appropriate.
- Working with students (individually and in groups) by providing academic coaching.
- Engaging with HWPEP Leadership in planning for various program activities and elements, as requested, during regularly scheduled and ad hoc meetings of the tutor staff.
- Assisting HWPEP professors as needed.
- Adhering to all policies included in the HWPEP Student Handbook and HWPEP Tutor Handbook.
- Adhering to all MDOC policies and procedures.
- Engaging at least annually (and more often if indicated) in a process of performance appraisal.
- Engaging in best practices for tutoring.

Mr. Gilmore has been assigned to the following courses and co-curricular activities:

- Study Hall
- Homeroom
- Religion
- Business
- Mathematics
- Philosophy
- Health Dynamics

In fulfillment of these duties, Mr. Gilmore:

- Attended each class session.
- Completed all assigned reading, homework, quizzes, exams, and projects, if required by the professor.

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- Worked with individual and small groups of students in assigned courses by providing academic coaching in the subject matter (or for more generic skills like writing, oral presentation, and information literacy).
- Provided assistance to the professor of the course as requested.
- Attended study halls as assigned by the Leadership Team.

Mr. Gilmore has performed his tutoring duties in a manner consistent with the highest standards of the Hope-Western Prison Education Program's virtues of public discourse, including:

- **Humility** recognizes the limitations of any one person's knowledge, and thus makes it possible to learn from the insights of others. Humility says no to the pride that prevents open communication, thus encouraging a willingness to consider carefully others' opinions and perspectives. Humility does not mean, however, endorsement of every view encountered.
- **Hospitality** is the virtue of welcoming the stranger—who might really be anyone whose ideas, beliefs, or morality might seem different, confusing, or discomforting. Even more, it is the virtue of receiving others into our presence and offering a safe place for people to express ideas unlike our own.
- **Patience** is the willingness and the fortitude to stay engaged, calmly persevering, with the knowledge that waiting is not merely doing nothing, but is a persistent determination that reveals and stretches our ability to understand.
- **Courage** is the boldness to accept risks associated with honest advocacy of one's position. Courage requires the strength to freely speak one's convictions even when one's opinions may be considered dangerous or unpopular. Courage also involves the ability to listen openly as others articulate beliefs that are different from your own.
- **Honesty** is a determined commitment to discovering and speaking the truth by members of the community. Fidelity to what is the case and an unwillingness to mislead are hallmarks of honesty. Honesty fosters an open environment that encourages growth and leads to real progress.

Sincerely,

Richard Ray *David Stubbs*

Richard Ray and David Stubbs
Co-Directors

CALVIN PRISON INITIATIVE

September 27, 2022

Michigan Department of Corrections
Office of the Parole Board
Pardons and Commutations Director
P.O. Box 30003
Lansing, MI 48909

RE: Geary Gilmore

To Whom It May Concern:

As part of Mr. Gilmore's petition for commutation, I will add my observations of Mr. Gilmore's participation in the Calvin Prison Initiative over the past 5 years.

In partnership with the Michigan Department of Corrections, Calvin University offers a fully-accredited Bachelor's Degree in Faith and Community Leadership at Richard A. Handlon Correctional Facility. The courses are taught at the same rigorous academic level as courses on the main campus and include Calvin's liberal arts core curriculum, major courses focused on leadership development, and the courses necessary to earn a minor in social work. As a Calvin University student, Mr. Gilmore earned a cumulative GPA of 3.89. This academic success came as a result of Mr. Gilmore's dedication and hard work.

I have known Mr. Gilmore for over five years, and without hesitation I can say that he has been an exemplary student in the Calvin program. Not only has he done well academically, but he sought to assist CPI staff, professors, and peers whenever possible. In terms of the latter, Mr. Gilmore embraced the mission of the program: servant leadership. He always seemed to find a way to offer words of encouragement to his peers, support faculty and staff, and treat correction officers with respect. He was a role model for CPI students. More to the point, Mr. Gilmore would often find me in the school building and offers words of gratitude for the Calvin program. We are blessed to have him in the program.

Should Mr. Gilmore's petition for commutation be granted, he would have the support of the Calvin Prison Initiative and Calvin University community. As a Calvin alumnus, Mr. Gilmore would have access to the services of the Career Center and Alumni Association to assist him in finding employment. Calvin has also developed partnerships with a local organization to provide housing to students and graduates who are paroled. We would look forward to remaining in

Calvin
UNIVERSITY



CALVIN
THEOLOGICAL
SEMINARY

contact with Mr. Gilmore as he transitions to life on the outside and would provide mentoring and support and we are able.

If you have questions, please feel free to contact me at tv2@calvin.edu or 616-526-7998.

Sincerely,



Todd Cioffi, Ph.D.
Director

Mary K. Berghuis
4373 Fruitport Road
Fruitport, MI 49415

September 15, 2022

Honorable Governor Gretchen Whitmer
P. O. Box 30013
Lansing, MI. 48909

Dear Governor Whitmer:

Reference: Geary Gilmore, #138763
Michigan Department of Corrections

I am writing this letter to call to your attention to Prisoner Geary Gilmore who is an exemplary prisoner based on my knowledge of his behavior, success with Corrections Department expectations, and the work he quietly performed/ accomplished to bring about peace among and between prisoners during the time I was the Warden of Brooks Correctional Facility from 1999-2015 when I retired.

Since my retirement, I do not have access to his records for specific dates, but I believe he was there most of time I was the Warden there.

I observed Prisoner Gilmore participate in the Shakespeare Behind Bars program (which besides being about theater) I consider to be an outstanding therapeutic program. Prisoner Gilmore also participated in the 40 Days of Peace Program founded to reduce and prevent violence which was shown to be effective and the related Mediation Program where Michigan State University Law School trained 25 of the brightest and best prisoners to mediate conflict (at the lower levels) between prisoners (at its beginning so that it didn't fester and continue to build resulting in violence). He also participated in the Prison Fellowship Urban Mens Ministry Program which was vocational training and which led to his selection for the Calvin University Seminary Program where he has already received an Associate Degree and he is currently enrolled in the Bachelor Degree program. These accomplishments are merely more recent examples of the programs he has participated in that have prepared him for a successful release and becoming a long term positive contributor to society.

One more fact is the then Warden of Muskegon Correctional Facility during its first closing sent some of their best prisoners to Brooks (next door) and Geary

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was one of those prisoners. It also was done to assist in stabilizing Brooks Correctional Facility, a newer facility.

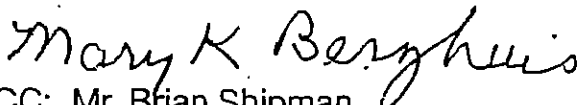
All the time I worked with Prisoner Gilmore he was an exemplary prisoner and expressed his regrets for that period of his young life when he was engaged in the behavior that resulted in his incarceration. He also expressed his up bringing that was obviously far different than these associations related to his incarceration. He also explained his love for a girl who was from a criminal family which led to his error. Geary's remorse is obvious, consistent and real as well as the pain it has caused him regarding his family not only his incarceration.

Of the 2,500-prisoners (and with turnover); I worked with, I put Geary Gilmore at the top of my list for prisoners for which I would support and recommend a commutation and release. Aside from what I have already said, it is well known that prisoners with Bachelor Degrees do not reoffend. If Geary Gilmore doesn't get to finish his degree before he gets out, I know Calvin University would arrange for him to finish it when he gets released.

Given Geary Gilmore's long term exemplary behavior, intelligence, values and accomplishments in prison, I am highly confident he, if commuted or paroled, will become a very positive member, a contributing member of society and I encourage and support his release.

Sincerely,

Mary K. Berghuis, Retired Warden
Brooks Correctional Facility



CC: Mr. Brian Shipman
Michigan Parole Board Chairman

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PROOF OF SERVICE

I, Geary Gilmore, pursuant to *MCR* 1.112, swear under penalty of perjury that on March 28, 2025, I deposited in the outgoing mail the following documents: Motion For Leave to File A Brief *Amicus Curiae*, Brief *Amicus Curiae* With Appendix, and this Proof of Service, to the Clerk of the Court and Attorneys for the parties by giving them to an authorized agent of the Muskegon Correctional Facility with postage prepaid and addressed to:

B. Eric Restuccia (P49550)
Deputy Solicitor General
Plaintiff-Appellee
P.O. Box 30212
Lansing, MI 48911

Mira Edmonds (P86182)
Defendant-Appellant Attorney
Michigan Clinical Law Program
701 South State Street
Ann Arbor, MI 48109

Susan K. Zuiderveen (P76985)
Van Buren County Prosecuting Attorney
Keith A. Robinson (P26680)
Chief Assistant Prosecuting Attorney
Suite 102, 212 E. Paw Paw Street
Paw Paw, MI 49079

Office of the Clerk
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909-7552

Jessica Zimbelman (P72042)
Managing Attorney
Criminal Defense Attorneys of Michigan
State Appellate Defender Office
200 N. Washington, Suite 250
Lansing, MI 48913



A handwritten signature in cursive script that reads "Geary Gilmore".

Dated: March 28, 2025

Geary Gilmore

**STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT**

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff-Appellee.

Michigan Supreme Court No. 163968

Court of Appeals No. 358537

Trial Court No. FC 76-2701-FC

-v-

EDWIN LARMAR LANGSTON

Defendant-Appellant.

Dana Nessel
Michigan Attorney General
Of Record: B. Eric Restuccia (P49550)
Deputy Solicitor General
Plaintiff-Appellee
P.O. Box 30212
Lansing, MI 48911

Mira Edmonds (P86182)
Defendant-Appellant Attorney
Michigan Clinical Law Program
701 South State Street
Ann Arbor, MI 48109

Susan K. Zuiderveen (P76985)
Van Buren County Prosecuting Attorney
Keith A. Robinson (P26680)
Chief Assistant Prosecuting Attorney
Suite 102, 212 E. Paw Paw Street
Paw Paw, MI 49079

Geary Gilmore, #138763
Amicus Curiae
Muskegon Correctional Facility
2400 S. Sheridan Dr.
Muskegon, MI 49442

**GEARY GILMORE'S
MOTION FOR LEAVE TO FILE A BRIEF AMICUS CURIAE
BRIEF AMICUS CURIAE WITH APPENDIX
PROOF OF SERVICE**

Date: March 28, 2025



March 28, 2025

Geary Gilmore, #138763
Muskegon Correctional Facility
2400 Sheridan Drive
Muskegon, MI 49442

Clerk of the Court
Michigan Supreme Court
Michigan Hall of Justice 925 W. Ottawa Street
P.O. Box 30052
Lansing, MI 48909



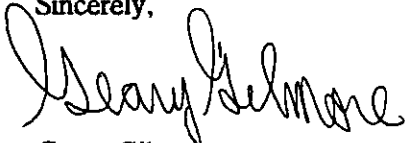
RE: *People v Langston*, Supreme Court Case No. 163968

Dear Clerk:

I have enclosed for filing in the above cited case, one copy of Motion for Leave to File a Brief *Amicus Curiae*, Brief *Amicus Curiae* With Appendix, and Proof of service,
Please file these documents with the court,

Thank you very much in advance. If there are any questions/directions please contact me at the above address.

Sincerely,


Geary Gilmore

Enclosures

File