

STATE OF MICHIGAN
MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN

PLAINTIFF APPELLE

V.

EDWIN LAMAR LANGSTON

VAN BUREN COUNTY PROSECUTOR
212 E. PAW PAW ST.
SUITE 102
PAW PAW MI 49079

Amicus Curiae
Joei Jordan 954719
Macomb County Correctional Facility
34625 26 Mile Rd
Lenox Twp, MI 48048

BRIEF IN SUPPORT OF MOTION TO FILE AMICUS

TABLE OF CONTENTS

INDEX OF AUTHORITIES	SPg II
STATEMENT OF QUESTIONS PRESENTED	Pg.III
INTORDUCTION	Pg.4
ARGUMENT	Pg.4
STANDARD OF REVIEW	Pg.5
Remedy Argument	Pg.15
Relief Requested	Pg.
PROOF OF SERVICE	Pg.

INDEX OF AUTHORITY

People v Aaron 409 Mich 672 (1980)

People v Bullock 440 Mich 15; 27 (1992)

People v Czarnecki 513 Mich 1146, 1146 (2025)

People v Lorentzen 387 Mich at 167 (1972)

People v Parks 510 Mich 225, 268; 987 NW2d 161 (2022)

People v Robinson 475 Mich 1 715 NW2d 44 2006 Mich lexis 1002

People v Stovall 510 Mich 301 (2022)

People v Taylor____Mich____,____; 12 NW2d 444 (2025)

MCL

750.316(1), 750.316(b), 750.317

750.520(2)

791.234(6)(e)

750.520(b)

750.83

750.110(a)(2)

767.39

Other Citing Sources

Minn Stat 609, 185(a)(3)

Colo Rev. Stat 18-3-103(1)(b)

ILL Public acts 102-1128

Cali Pen Code Subsec 190.2 Subd(d), Pen code 188, 189

85 Fordham L. Rev 1281

Const 1963, art 1 SubSec 16

Const Am VIII

STATEMENTS OF QUESTIONS PRESENTED

1. WHETHER IN THE ABSENCE OF EVIDENCE THE DEFENDANT ACTED WITH MALICE, MANDATORY LIFE WITHOUT PAROLE FOR FELONY MURDER CONSTITUTES CRUEL AND/OR UNUSUAL PUNISHMENT UNDER CONST 1963, Art 1 B 16 or U.S. Const Am VIII

Defendant appellant answer: YES

Plaintiff Appellee answer: NO

2. WHAT IS THE STANDARD BY WHICH COURTS SHOULD DETERMINE WHETHER SUFFICIENT EVIDENCE OF MALICE WAS PRESENTED AND THE MEANS BY WHICH A DEFENDANT SHOULD PRESENT SUCH AN ARGUMENT.

INTRODUCTION

On January 22 2025, this court heard oral arguments in the case of People v Edwin Langston, SC ç 163969, Mich Lexis 169 (January 22 2025)

On March 28 2025 this court granted oral arguments and asked the parties to brief and answer 6 questions. Amicus Curia in this brief in support will answer the following questions.

1.) Whether in the absence of evidence the defendant acted with malice, mandatory life without parole for felony murder constitutes cruel and/or unusual punishment under Const 1963, art 1 B 16 or U.S. Const AM VIII.

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

Mr. Jordan is among those people serving a mandatory Life imprisonment without the possibility of parole and would be directly affected by this courts decision in Langston. Amicus Curia presents the following arguments, analysis, and remedy for the questions presented by this Honorable court to assist it in securing a just, speedy, and economical decision in this case and cases similarly situated.

ARGUMENT

WHETHER IN THE ABSENCE OF EVIDENCE THAT THE DEFENDANT ACTED WITH MALICE, MANDATORY LIFE WITHOUT PAROLE FOR FELONY MURDER CONSTITUTES CRUEL AND/OR UNUSUAL PUNISHMENT UNDER CONST 1963 ART 1 B 16, or CONST AM VIII.

II. Standard of Review

Whether legislatively imposed mandatory punishments violates Const 1963 art 1 § 16 is a question of law. (People v Parks, 510 Mich 225, 268; 987 NW2d 161 (2022)).

"The Ultimate authority with regard to the meaning and application of Michigan's constitution rest solely with this court. (People v Bullock 440 Mich 15; 27 1992)

III. Constitutional framework

Michigan's constitution states "Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained". Const 1963, Art 1 § 16.

Determining what constitutes cruel or unusual punishment is guided by "evolving standards of decency that mark progress of a maturing society." Parks, 510 Mich at 241, quoting Lorentzen 387 Mich at 179.

To determine if a sentence is cruel or unusual punishment, this court has applied the same test for over 50 years: The four factor test from People v Lorentzen, 387 Mich 167 1972. (See also, People v Bullock, 440 Mich 15 1992); People v Parks, 510 Mich 225 2022); People v Stovall, 510 Mich 301 2022); People v Lymon ____Mich ____,____ 2024) (Docket No. 164685) People v Czarnecki, 513 Mich 1146, 1146 (2025); People v Taylor, ____ Mich ____, ____: 12 NW3d 444 (2025)

Accordingly, to evaluate the proportionality of a punishment under Michigan's cruel or unusual punishment clause, a court must consider: (1) The severity of the punishment relative to the gravity of the offense (2) Punishments imposed the same

jurisdiction for other offenses, (3) Punishments imposed in other jurisdictions for the same offense, and, (4) Michigan's traditional goal of and preference for rehabilitation. Parks, 510 Mich at 242, citing Bullock, 440 Mich at 33-34; Lorentzen, 387 Mich at 176-181.

1. SEVERITY OF THE PUNISHMENT AND GRAVITY OF THE OFFENSE.

Examining the first Lorentzen - Bullock factor, and applying the test to MCL 750.316(1)(b), there is no dispute that First Degree Felony murder is one of the most severe and heinous crimes that a person can commit.

The question herein ask whether the person that was a mere accomplice in the crime, or the person that had no knowledge of a co-felons violent actions, or the person that engaged in and unarmed non violent role during the felony is deserving of the most sever punishment in Michigan.

Both Mr. Jordan and Mr. Langston's role in the murder itself were non existent. Mr. Jordan's accomplice did not intend to kill the victim in the home invasion. There is even more evidence to support proof of accident on the principal than knowledge that Mr. Jordan knew the murder would happen. (See TT vol 4 Pg 141-142 Ballistics Expert testimony about the gun accidental discharge and malfunction)

Mr. Langston drove the shooter to the gas station he had no idea of the intentions of the principal and did not even enter the store. (TT 1846 Edwin Lamar Langstons brief MI Supreme court)

In 1980 the Aaron court took the "logical extension" to read out any common law meaning from the word "murder" in MCL 750.316(1)(b). People v Aaron 409 Mich 672 (1980)

The court stated in the holding:

"Accordingly, we hold today malice is the intention to kill, the intention to do great bodily harm, or the wanton and willful disregard of the likelihood that the natural tendency of defendants behavior is to cause death or great bodily harm. We further hold that malice is an essential element of any murder, as that term is judicially defined, whether the murder occurs in the course of a felony or otherwise." Id at 728. Aaron Supra.

The question this court ask is that "in the absence of malice" or "evidence of malice" is it cruel or unusual to sentence someone to mandatory life without parole.

According to the Aaron court and the leading case on felony murder, its not constitutional to find someone guilty of felony murder without first finding that the individual had an intent to kill.

It follows that the punishment for someone who did not kill anyone should not be the same as the punishment for someone who did. It becomes "Unusual" when the court discounts the individuals knowledge, intent and culpability as it pertains to murder. This scheme becomes cruel when someone has served as much time as Mr. Langston has.

It is clear that a mandatory LWOP sentence for all participants in certain felonies resulting in death is constitutionally disproportionate and violates the defendants right to have every element of an offense found beyond a

reasonable doubt before imposing Michigan's harshest penalty.

2. PUNISHMENTS IMPOSED IN MICHIGAN FOR OTHER OFFENSES.

The second Lorentzen - Bullock factor requires that we compare punishment for the crime at issue to the punishment for other crimes.

Mandatory LWOP is the most sever punishment one can receive in Michigan.

Michigan only MANDATES life without parole for offenders convicted of First degree murder, 750.316(1)
Habitual repeated sexual assaults of children under age 13, MCL 750.520(2)(c)

And MCL 791.234(6)(e); and a handful of other highly dangerous offenses that endanger many people and result in a death, MCL 791.234(6)(c)(d) and (f).

Most violent crimes and other forms of homicide are not on this list.

For example MCL 791.234(6) does not include

- Second - degree murder, MCL 750.316;
- Assault with intent to commit murder, MCL 750.83
- Most forms of first degree Criminal sexual conduct under MCL 750.520(b).

This courts recent decision in Taylor Supra, Czarnecki Supra made it unconstitutional to sentence anyone under 21 who was convicted of first degree murder to mandatory life without parole without first giving that individual a mitigating hearing. Eve now the punishment for Juvenile first degree murder offenders is no longer mandatory life without parole, with the minimum

minimum being 25 years.

Under Michigan's current mandatory sentencing scheme, aider and abettors or individuals who did not have malice, would spend more time in prison than individuals who were more culpable and actually took life. Aider and abettors spend more time in prison than individuals who take plea deals for second degree murder or were convicted of second degree murder and actually took life. (MCL 750.317 prescribes any term of years up to LIFE but not mandatory LWOP).

Individuals like Mr. Langston who have served 50 years and individuals like Mr. Jordan who has served a decade plus, have served more time than most people convicted of Assault/w intent to commit murder.

Mr. Langston has and will serve more time in the M.D.O.C ,while 18, 19, and 20 year old offenders who actually killed, are currently being resentenced to 25 year minimum sentences. A sentence that would have had Mr. Langston home 26 years ago.

The second Lorentzen - Bullock factor favors a finding that imposing Mandatory LWOP on aider and abettors or individuals charged with felony murder absent a finding of malice is unconstitutional.

3. PUNISHMENTS IMPOSED IN OTHER JURISDICTIONS FOR THE SAME OFFENSE.

The third Lorentzen - Bullock factor requires that the court examine punishments imposed in other jurisdictions for the same offense.

This factor also weighs in favor of requiring individualized sentencing before a mandatory LWOP sentence can be imposed on an aider and abettor or individuals who did not have malice.

The felony murder rule does not exist in any other country. Felony Murder has been abolished in its origin country, England, for decades. It is also non-existent in India, severely restricted in Canada and a number of other common wealth countries and is unknown in continental Europe. Before it was abolished in these countries, the punishment was not a mandatory LWOP sentence.

The Parks court cited that "25 states and the district of Columbia did not legislatively mandate life without parole for equivalent first degree murder regardless of the age of the offender." Parks, 519 Mich at 262 & n 15.

In the last six years reform for felony murder has taken place in jurisdictions such as; Colorado, Minnesota, California, and Illinois. These reforms targeted punishment of defendants who did not kill specifically in California and Minnesota eliminating felony murder liability for individuals who do not kill or recklessly risk death. (See Minn. Stat. 609.185(a)(3); Colo Rev. State 18-3-103(1)(b); ILL Public acts 102-1128; Cali Pen Cod. Subsec 190.2 Subd(d)).

California prescribed a mandatory LWOP sentence prior to its statutory amendment.

In California the legislature amended Pen Code 188m 189 adding that; "It limits liability under a felony murder theory principally to actual killers and those who, with intent to

kill, aided or abetted the actual killer in the commission of murder in the first degree, defendants who were neither actual killers no acted with the intent to kill can be held liable for murder, only if they were a major participant in the underlying felony and (NOT "OR") acted with reckless indifference to human life." Pen Code Subsec 190.2 subd(d).

Minnesota legislature recently amended its felony murder provision and added to it a "mechanism for persons previously convicted of specified felony murder offenses under an aiding and abetting theory to apply to have their conviction vacated if they meet certain requirements." Minn. Stat. Subsec 609(2)(1).

Even this states Punishment was only a maximum 40 years.

The national and international patterns dealing with felony murder and individuals who did not have malice, illustrate that "evolving standards of decency that mark the progress of a maturing society", Lorentzen 387 Mich 179, display these trends are moving away from sentencing any individual to mandatory LWOP. But specifically, individuals similarly situated to Mr. Langston and Mr. Jordan.

Today, the offenses that carry potential for mandatory LWOP involve a killing with malice. The imposition of such punishment on individuals who did not have malice, I.E. aider and abettors, does not comport with our constitutions mandatory prohibition on excessively harsh and thus cruel or unusual punishment Const. 1963, Art 1 SubSec 16.

4. MICHIGAN'S TRADITIONAL GOAL OF AND PREFERENCE FOR REHABILITATION.

The last proportionality factor that must be considered under Lorentzen - Bullock is Michigan's longstanding goal of and preference for punishments that allow for rehabilitation. It has been previously noted in Parks supra, that, "it cannot be disputed that the goal of rehabilitation is not accomplished by mandatorily sentencing an individual to life behind prison walls without any hope of release." Parks, 510 Mich at 264-265

It is a well known fact that Michigan was the first state to abolish the death penalty. Also Michigan was one of the first states to establish and formally create a parole board, (1895 PA 218 B 1 & 2), this was based on systematic use of the pardon power by the Governor. See "The Meaning of Life, In Michigan: Mercy from life sentences under the state constitution unpublished manuscripts (November 22 2024).

In the herein case it is important to not that the issue of moral culpability and personal liability we are discussing is not one of rehabilitating an individual who committed murder. We are discussing rehabilitating an individual who did not kill, intend to kill, commit great bodily harm, or know the principal would actually kill.

The felony murder sentencing scheme forecloses a sentencing court from ensuring that the punishment imposed is "tailored to a defendants personal responsibility and moral guilt". Bullock, 440 Mich at 39

The purpose of criminal sentencing include deterrence,

rehabilitation, retribution and public safety.

Sentencing an individual to die in prison does not deter unintended acts of co - felons that result in the homicide. Rather it eliminates the possibility of rehabilitation regardless of personal transformation.

Mr. Jordan has attached a copy of his classification report. Notice that he has no recommendation for programming of any kind. His LWOP sentence, atleast for 12 years, made him unable to take core programming. (See Exhibit A)

Mr. Jordan has not had a misconduct in 8 years out of the 12 years he has been incarcerated. His personal transformation is tailored to the fact that he has been incarcerated since he was 20 years old.

Mr. Jordan was going to grow out of impulsive thinking and risky behavior inevitably. "19 or 20 year old defendants are irreparably corrupt, whether they have the capacity to positively reform as they age, and whether they committed their crime when they lacked the capability to fully understand the consequences of their actions."Id. at Parks, 519 Mich at 259

The sentencing scheme gave zero consideration to Mr. Jordan's role in the crime, his prior criminal record, or lack thereof or his age.

Further, the M.D.O.C. does not see Lifer's or the necessity for Lifer's to take programs or trades such as; welding, computer programming, CDL certification etc. In fact until recently Lifers were not allowed to partake in or be considered for these trades and programs.

Under the premise that those individuals are not going to return to society and therefore do not need those skills and programming. There is no need to waste space and resources. (Core program consist of MDOC recommended programming; Phase 1 or Phase 2, VPP, Parole board recommended programs.)

It has been noted by the Michigan Supreme Court that rehabilitation "is the only penological goal enshrined in our proportionality test as a criterion rooted in Michigan's legal traditions". Id. at 265, quoting Bullock, 440 Mich at 34

As in Parks, Taylor, and Czarnecki it should be concluded that it would be "antithetical to the Michigan Constitution's professed goal of rehabilitative sentences" to deny all aider and abettors of felony murder any possible opportunity to rehabilitate themselves and re enter society without requiring and individualized sentencing proceeding at which relevant mitigating factors such as:

1. was the defendant an aider and abettor
2. did the defendant actually harm the victim physically or
3. if there is any evidence that the defendant had actual knowledge that the principal would kill. (Evidence the defendant knew his co felon had a weapon is not evidence he knew his co felon intended to kill).

For these reason Mr. Jordan prays this court deem it unconstitutional to Sentence someone charged with Felony Murder that did not have malice to a mandatory Life without parole sentence.

II. WHAT IS THE STANDARD BY WHICH COURTS SHOULD DETERMINE WHETHER SUFFICIENT EVIDENCE OF MALICE WAS PRESENTED AND THE MEANS BY WHICH A DEFENDANT SHOULD PRESENT SUCH AN ARGUMENT

To Amend the states Criminal code to Reclassify the Punishment imposed for Felony Murder from "Mandatory life without parole" to "Life or any term of years not less than 15 year".

For those individuals who did not Kill, Intend to kill, or Know the actual killer was going to kill and can demonstrate that the prosecutors theory was that He/She (the individual) was merely an aider and abettor of the Underlying Offense and not the actual murder the punishment for the charge of Felony Murder shall be a minimum of 15 years to any term of years up to Paroleable Life.

*Note An individual who commits murder in the commission of a Felony can be given life without the possibility of parole.

This would give the sentencing courts discretion to sentence a criminal according to their clear culpability.

New Language

"A participant in the perpetration or attempted perpetration of a felony listed in which a death occurs is liable for murder ONLY if one of the following is proven:

1. The person was the actual killer
2. The person was not the ACTUAL MURDERER BUT WITH MALICIOUS INTENT TO KILL, COUNSELED, COMMANDED, INDUCED, SOLICITED, REQUESTED, OR ASSISTED THE ACTUAL KILLER IN THE COMMISSION OF

MURDER IN THE FIRST DEGREE DURING AN ENUMERATED Felonie

MCL 750.316(1)(b) Enumerated felonies listed can remain.

- Subsec. a) those currently sentenced under MCL 750.316(1)b) First Degree Felony Murder and were so Prior to 1980 shall retroactively allow parole eligibility for those currently sentenced and were so Prior to the Aaron Courts Ruling on felony murder. Those defendants that were Principals must have Sentencing Hearing to see if they were given Jury instructions that Violated their Due process right to have "Malice" shown to the jury.

(minimizing judicial resources, their are under 90 men and women who have been incarcerated 50 plus years.)

"A person convicted of felony murder under an aiding and abetting theory MCL 767.39 or a natural and probable consequence theory may file a petition with the court that sentenced the petitioner to have the Mandatory life without parole sentence vacated when all the following conditions apply:

1. MCL 767.39 (CJI 8.1) was used in the petitioners Felony Murder Trial.
2. The petitioner was convicted of First degree Felony murder following a trial.

The court shall either resentence the defendant to a term of years or hold a hearing to asses:

1. The role the individual played in the crime
2. Asses the jury instruction used in the trial.

(specifically what the jury was instructed on in regard to aiding and abetting).

3. If the prosecutors sole theory was that the murder was a Natural and probable consequence of the underlying offense.

4. If the prosecutors sole theory was that the defendant was guilty based on mere presence.

The court can take into consideration:

- If the prosecutor overcharged because of the publicity of the case. If He/She could have avoided the felony murder charge altogether.

The court can take into consideration:

- 1 - The defendants Prior criminal record or the lack thereof.
- 2 - the defendants time served on the LWOP sentence
- 3 - age at the time of the offense
- 4 - time left on the underlying offense

Procedure

Once the court deems that it is cruel or unusual punishment to sentence someone charged with Felony murder under a theory of aiding and abetting, to mandatory life without parole sentence:

- The defendant must/shall move the court by Motion for relief from judgment (6.508) to resentence him/her because he/her did not have the necessary malice to be sentenced to a mandatory life without parole sentence.

Relief Requested

The defendant ask this honorable court to rule that it violates Mich Const Art 1 § 16 and U.S. Const Am VIII to sentence an individual to Mandatory Life without parole who did not have malice and or did not have an intent to kill.

Dated: 9/8/25

Respectfully,

Joel Jordan #954719

Amicus Curiae

Macomb Correctional Facility

34625 26 Mile Rd

Lenox Twp, MI 48048



STATE OF MICHIGAN
MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN

PLAINTIFF APPELLE

V.

EDWIN LAMAR LANGSTON

VAN BUREN COUNTY PROSECUTOR
212 E. PAW PAW ST.
SUITE 102
PAW PAW MI 49079

Amicus Curiae
Joel Jordan 954719
Macomb County Correctional Facility
34625 26 Mile Rd
Lenox Twp, MI 48048

Proof of Service

I Swear that a true copy of this Amicus Curiae brief was served
on all the Van Buren County Prosecutor at 212 E. Paw Paw St
suite 102 on September 8 2025

Date: 9/8/25

Signature: [Signature]

Notary Public: Kelly B. Edwards
9-8-2025

KELLY B EDWARDS
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF SANILAC
My Commission Expires September 09, 2029
Acting in the County of Macomb