

STATE OF MICHIGAN  
IN THE THIRD CIRCUIT COURT OF MICHIGAN-CRIMINAL DIVISION  
FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN  
Plaintiff,

v

Case No. 00-007900-01-FC  
Hon. Shannon Walker

MARK T. CRAIGHEAD,  
Defendant.

OPINION AND ORDER

At a session of said Court held in the Frank  
Murphy Hall of Justice on **FEB 04 2021**  
PRESENT: HON. JUDGE SHANNON NICOL WALKER  
Circuit Court Judge

Following a jury trial, Defendant, Mark T. Craighead, was convicted was convicted of manslaughter, pursuant to **MCL 750.321** and possession of a firearm during commission of a felony, pursuant to **MCL 750.227b**. Defendant was sentenced to 40 months to 15 years in prison for the manslaughter conviction and two years in prison for the felony-firearm conviction. On December 22, 2005, Michigan's Court of Appeals (Docket No. 243856) affirmed Defendant's conviction.

This case arises out of the shooting death of Chole Pruett on or about June 27, 1997. Pruett was found shot four times in his own apartment, and the evidence suggested that at least one of the bullets was shot while the shooter stood over him. There was no sign of forced entry, nor did the killer disturb much of the apartment. The killer went through

Imaged and Filed 2/8/2021 2:22 PM Cathy M. Garrett, Wayne County Clerk /s/ Vivian Hill

00-007900-01-FC  
CRGMRI  
Order Granting Motion for Relief from Judgment  
595165

a few of the victim's dresser drawers but did not take his jewelry. Pruett had recently received a large cash settlement about which only a select few of his friends knew. Pruett spent much of his time with defendant, who was his best friend and only one of a few male friends. A police interview suggested that defendant and Pruett had discussed selling drugs together, and in the bedroom near the victim's body, police found several shoe boxes left open on the bed and two boxes of live ammunition.

On June 20, 2000, two police officers arrived at defendant's home. Then in a written statement at 11:00 a.m. on June 21, 2000, defendant admitted shooting and killing Pruett after wrestling a gun away from him. Defendant also admitted driving Pruett's truck home and then driving it somewhere and setting it on fire. Defendant signed the statement and repeatedly initialed a list of rights, acknowledging that he understood each of them and voluntarily waived them all.

Following a five-day jury trial, defendant was convicted of voluntary manslaughter and felony-firearm. At trial, the People admitted defendant's signed statement which he provided, waiving the Miranda rights to the Detroit Police Homicide Investigator Barbara Simon between the hours of 11:15 a.m. and 11:50 a.m. on June 21, 2000.<sup>1</sup>

On appeal, defendant argued that his federal and state constitutional right against unreasonable searches was violated when he was arrested without a warrant or a showing of probable cause, and that his June 21, 2000, statement to the police obtained as a result of the illegal arrest should have been suppressed. The Court of Appeals disagreed, arguing when considering a trial court's decision on a motion to suppress evidence, the Court reviewed the trial court's factual findings for clear error. **MCR 2.613(C)**; *People v Farrow*, 461 Mich 202, 209; 600 NW2d 634 (1999).

Defendant's first argument in support of his motion is that the prosecution's theory at trial was that defendant acted alone. However, the prosecution did not put forth any evidence at trial suggesting that defendant acted with an accomplice. Indeed, per defendant's first Motion for Relief from Judgment, Judge Vera Massey Jones stated that she had been convinced that the defendant was always acting alone. 7/14/2010, 122-23.

Defendant's second argument is that the information presented constitutes new evidence. He is permitted to file this successive motion for relief because it is based on new evidence. **MCR 6.502(G)(2)**. This new evidence that defendant now raises is

---

<sup>1</sup> 06/20, 109.



material. It stems from the exonerations of Lamarr Monson, Justly Johnson, and Kenrick Scott, which did not come to light until 2017 and 2018, and evidence of Simon's misconduct in Damon Nathaniel's case, which emerged in 2011. Memorandum in support of Motion at 15.

The prosecution notes that Simon has been sued eighteen times in federal court: five of these cases were filed before defendant's June 2002 jury trial; seven were filed during defendant's direct appeal; and two were filed prior to defendant's first MRJ. Prosecution's brief at 29. This is misleading for two reasons. First, the crux of the prosecution's argument is that Simon's wrongdoing was so pervasive that defendant should have been able to impeach the credibility decades ago. Second, the mere fact that someone has been sued cannot be used to impeach credibility especially since law enforcement officers are sued frequently.

Defendant asserts that in addition to their inadmissibility, none of the civil suits filed against Simon before defendant's first MRJ would have materially impeached Simon, unlike the new evidence presented in this MRJ. The Court of Appeals did indeed address the claims against Simon but the prosecution neglects to mention that this Court found those claims were not established. The Court stated that it did not believe that any improper conduct, threats, or promises were involved in obtaining defendant's statements. Prosecution's brief citing *People v Moore*, No. 209505, 200 WL 33420632 at 1 (Mich Ct App, May 12, 2000).

For civil suits that followed defendant's conviction, the prosecution first offers *Peet v City of Detroit, et al*, 502 F3rd 557 (CA6 2007). In *Peet*, Simon was one of fifteen named defendants in an unsuccessful §1983 action against the City of Detroit and individual police officers. Although the Sixth Circuit's opinion discusses the actions of several individual defendants, Simon is not mentioned. *Peet* would not have allowed defendant to put forth impeachment evidence emanating from a lawsuit against fifteen defendants that (1) did not survive summary judgment and (2) did not accuse Simon of the sort of misconduct defendant alleged at trial. It is doubtful that invoking *Peet* would have been useful when defendant filed his first MRJ.

Defendant's next point is that the prosecution raises *People v Eddleman*. No.224957, 2002 WL 433338 (Mich Ct App March 19, 2002) (unpublished). Defendant argues that it is instructive to do what the prosecution did not and examine how the court addressed it. *Eddleman* did not find that Simon had committed misconduct. It merely found that she and defendant were equally credible, and that the lower court had thus erred in finding that the preponderance of evidence standard had been met.

Accordingly, the prosecution's own brief makes clear why defendant could not have raised the claims he now raises in his current MRJ. The evidence impeaching Simon simply did not exist in the form of admissible evidence at the time of defendant's prior MRJ.

Defendant now puts forth material evidence in his latest MRJ consisting of the affidavits of three men who were exonerated because Simon's misconduct was exposed. Defendant's new impeachment evidence establishes a pattern of behavior that is admissible under **MRE 404(b)**. At his trial, defendant testified that he signed a confession authored by Simon because she told him that he would be imprisoned for the rest of his life if he did not sign it. 6/24/2002, 89.

Moreover, there are similarities between the misconduct defendant alleged Simon committed in this case. Not only has this Court already found statements obtained by Simon not to be credible, but so too has the Michigan Supreme Court. *People v Johnson*, 502 Mich 541, 575-76; 918 NW2d 676 (2018).

Defendant argues, and this Court agrees that the prosecution fails to devote a single word in its lengthy brief to refute the significance, materiality, or validity of the new evidence defendant raises. Instead, the prosecution incorrectly argues that defendant is procedurally barred from raising evidence stemming from exonerations that took place in 2017 and 2018 because of additional misconduct from Simon dating back to January 1995. Prosecution's brief at 29.

Finally, the newly discovered evidence impeaching Simon is admissible under **MRE 404(b)(1)** that allows for the admissibility of evidence of other wrongs or acts to demonstrate, "opportunity, intent preparation, scheme, plan, or system in doing an act[.]" This can be seen by the fact that Simon has a history of falsifying confessions and lying under oath. Defendant is relying on sworn affidavits and depositions from three exonerees willing to testify in Court, Simon's own testimony, and a federal district court's judgment against Simon. This new evidence establishes a common scheme of misconduct.

This impeachment evidence demonstrates that Simon has repeatedly lied as part of her misconduct, which would allow a jury to evaluate whether to trust her testimony in light of information demonstrating a character for truthfulness.

A defendant is entitled to relief from judgment on the basis of newly discovered evidence where the new evidence creates a reasonable probability of a different outcome upon retrial, *People v Tyner*, 497 Mich 1001, 1001; 861 NW2d 622 (2015); *People v Clark*, 363



Mich 643, 647; 110 NW2d 638 (1961). The fourth prong of *Cress* involves the Court considering the full weight of all the evidence, old and new, in determining whether there would be a reasonable probability of a different outcome upon retrial. *People v Johnson*, 502 Mich 541, 571; 918 NW2d 676 (2018).

The phone records, the new impeachment evidence, and jury upon retrial could come to a different conclusion than the jury in defendant's 2002 trial. Accordingly, for the reasons explained in the brief in support herein, this Court holds that defendant has established entitlement to relief under **MCR 6.500 et. seq.** Therefore, Defendant's Successive Motion for Relief from Judgment is **GRANTED**.

Dated: FEB 04 2021

  
Circuit Court Judge

STATE OF MICHIGAN  
IN THE THIRD CIRCUIT COURT OF MICHIGAN-CRIMINAL DIVISION  
FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN  
Plaintiff,

v

Case No. 00-0007900-01-FC  
Hon. Shannon Walker

MARK CRAIGHEAD,  
Defendant.

\_\_\_\_\_ /

ORDER

At a session of said Court held in the Frank  
Murphy Hall of Justice on FEB 04 2021

PRESENT: HON. JUDGE SHANNON NICOL WALKER  
Circuit Court Judge

In the above-entitled cause, for the reasons set forth in the foregoing Opinion, IT  
IS HEREBY ORDERED that Defendant's Successive Motion for Relief from Judgment  
is GRANTED.

Date: FEB 04 2021

  
Circuit Court Judge

PROOF OF SERVICE

*I certify that a copy of the above instrument was served upon the attorneys of record and/or self-represented parties in the above case by mailing it to the attorneys and/or parties at the business address as disclosed by the pleadings of record, with prepaid postage on*

\_\_\_\_\_  
Name \_\_\_\_\_

FEB 0 4 5051

JUDGE DIVISION WISCONSIN

FEB 0 4 5051