
Post-Conviction Motions

24.2.b.3 [Michigan Motion for Relief From Judgment \(6.500 Motion\)](#)

STATE OF MICHIGAN
IN THE DISTRICT OR CIRCUIT COURT FOR THE COUNTY OF NAME OF COUNTY

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

vs

No. docket number
Hon. judge's name

DEFENDANT'S NAME,

Defendant.

MOTION FOR RELIEF FROM JUDGMENT

The Defendant, defendant's name, by his or her counsel, moves this Court to set aside or modify the judgment in this case pursuant to Michigan Court Rule 6.500 and the following:

1. Defendant's name was convicted of offense following a jury or bench trial in criminal case number docket number. The trial was held in the district or circuit for the County of name of county, the Honorable judge's name presiding.
2. Defendant's name was sentenced on date, to sentence. Defendant's name is presently serving that sentence at the name correctional facility in the State of Michigan.
3. A timely notice of appeal was filed, and the Michigan Court of Appeals affirmed Defendant's name conviction on date. Defendant's name was represented by defense attorney's name, indicate if appointed or retained.
4. At this time, defendant's name moves this Court to set aside or modify the judgment, and to grant a new trial in the case.
5. None of the bars against relief from judgment are present:
 - (a) Defendant can no longer proceed directly by appeal by leave since more than 12 months have elapsed from judgment. Mich. Ct. R. 6.508(D)(1). The judgment

may only be reviewed in accordance with Mich. Ct. R. 6.500 *et seq.* Mich. Ct. R. 6.502 authorizes a motion for relief from judgment.

(b) Defendant has not previously raised these claims in post-conviction proceedings, and the grounds for relief have never been decided against him on the merits. Mich. Ct. R. 6.508(D)(2). 532

(c) These issues could have been raised on appeal, Mich. Ct. R. 6.508(D)(3), but Defendant submits that he is entitled to relief because he had good cause for failure to "properly" raise these issues on appeal, Mich. Ct. R. 6.508(D)(3)(a); namely, ineffective assistance of appellate counsel. *See e.g., People v. Reed*, 449 Mich. 375 (1995); *People v. Hardaway*, 459 Mich. 878 (1998); *People v. Kimble*, 470 Mich. 305 (2004).

6. This motion is based upon numerous violations of defendant's name Constitutional rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and Sections Seventeen and Twenty of the Michigan Constitution. Specifically, defendant's name rights were impermissibly infringed where the prosecution:

State grounds for relief, such as:

- a. Failed to properly disclose, and then destroyed, exculpatory physical evidence
(see Section I, accompanying Memorandum);
 - b. Failed to properly disclose exculpatory evidence regarding prior arrests and convictions of the decedent, and (see Section I, accompanying Memorandum);
 - c. Engaged in prosecutorial misconduct by suggesting that the jurors conduct their own investigation (see Section II, accompanying Memorandum).
7. Moreover, Defendant's name rights were impermissibly infringed where:
- a. Court-appointed trial counsel provided ineffective assistance by failing to request a jury instruction which corresponded to the evidence presented by the defense (see, Section III, accompanying Memorandum);

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- b. Court-appointed trial counsel provided ineffective assistance by failing to make timely objections to repeated prosecutorial misconduct (see, Section III, accompanying Memorandum);
 - c. Court-appointed trial counsel provided ineffective assistance by failing to conduct basic pre-trial investigation (see, Section III, accompanying Memorandum), and;
 - d. Court-appointed appellate counsel provided ineffective assistance by neglecting to raise on direct appeal the ineffectiveness of trial counsel. (See, Section III, accompanying Memorandum)

8. The factual and legal basis behind each of these claims is set forth in the accompanying Memorandum of Law. Defendant submits that he has demonstrated “actual prejudice” in that but for the alleged errors, he would have had a reasonably likely chance of acquittal. Mich. Ct. R.

6.508(D)(b)(i).

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For these reasons and those set forth in the accompanying Memorandum, defendant's name asks that this Court grant relief from judgment and set aside or modify the judgment in this case.

Respectfully submitted,

By: _____
Defense attorney's name (bar number)
Attorney for Defendant
Address
Address
Telephone

Date: filing date

Approved, SCAO

Original - Court
1st copy - Prosecutor

2nd copy - Defendant
3rd copy - Defendant attorney

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY	MOTION FOR RELIEF FROM JUDGMENT	CASE NO.
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ORI	Court address	Court telephone no.
MI-		

THE PEOPLE OF THE STATE OF MICHIGAN

v

Defendant name, address, and inmate no.		
To be completed by the court.		
CTN/TCN	SID	DOB

INSTRUCTIONS: Answer each question as completely as you can. If you need more space to answer any question, you may attach extra pages. You may also attach documents, affidavits, or a brief, if you wish. Only one motion for relief may be filed, except as indicated in MCR 6.502(G)(2). Information for items 1 and 2 is on both your judgment of sentence and basic information sheet, which are available at the prison record office.

1. I was found guilty on _____ of the crime(s) stated below.
Date

Count	CONVICTED BY			DISMISSED BY*	CRIME	CHARGE CODE(S) MCL citation/PACC Code
	Plea*	Court	Jury			

*For plea: insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill. For dismissal: insert "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

2. I was sentenced as stated below by Hon. _____
Name of judge

Count	SENTENCE DATE	MINIMUM			MAXIMUM		DATE SENTENCE BEGINS	JAIL CREDIT		OTHER INFORMATION
		Years	Mos.	Days	Years	Mos.		Mos.	Days	

3. Fill in the charts below with the information requested about the court proceedings in your case and the names of the attorneys who represented you.

a. **Trial Level - All Proceedings.** From arrest to sentencing, including lineups and other proceedings.

NAME OF PROCEEDING	NAME OF ATTORNEY

NAME OF PROCEEDING	NAME OF ATTORNEY

b. **Postconviction - All Proceedings.** State and federal, including appeals, posttrial motions, and habeas petitions.

COURT	DOCKET NO.	NAME OF PROCEEDING	NAME OF ATTORNEY	RESULT	DATE OF RESU

(Continued on the other side.)

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MCR 6.502, MCR 6.503

4. **Appointment of Counsel.** Do you want an attorney appointed? Yes No If yes, complete and attach a financial schedule.

5. **Grounds and Relief.**

a. What action do you want the court to take?

b. What are the legal grounds for the relief you want? **You must raise all the issues you know about.** You may not be allowed to raise additional issues in the future. Use extra sheets of paper, if necessary.

ISSUE ONE:

Supporting facts:

ISSUE TWO:

Supporting facts:

ISSUE THREE:

Supporting

facts:

ISSUE FOUR:

Supporting

facts:

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date

Signature

PROOF OF SERVICE

I certify that on this date I served a copy of this motion upon the prosecutor by
 personal service. first-class mail.

Date

Signature

Original -
Court

1st copy - Defendant

2nd copy - Appointed attorney

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	REQUEST FOR COURT-APPOINTED ATTORNEY AND ORDER	CASE NO.
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ORI
MI-

Court address

Court telephone no.

THE PEOPLE OF <input type="checkbox"/> The State of Michigan <input type="checkbox"/>

v

Defendant name, address, and telephone no.		
CTN	SID	DOB

REQUEST

The defendant requests a court-appointed attorney and submits the following information.

1. CHARGE Next hearing: _____ Date	<input type="checkbox"/> Misdemeanor <input type="checkbox"/> Felony <input type="checkbox"/> Paternity	2. RESIDENCE <input type="checkbox"/> Rent <input type="checkbox"/> Own <input type="checkbox"/> Live with parent <input type="checkbox"/> Room/Board
Bail amount: \$ _____	<input type="checkbox"/> Bond posted	3. MARITAL STATUS <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Dependents: <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> _____ Num
4. INCOME Employer name and address		Length of employment
		Average take-home pay \$ <input type="checkbox"/> weekly <input type="checkbox"/> monthly <input type="checkbox"/> every two week
Other Income State monthly amount and source (DSS, VA, rent, pensions, spouse, unemployment, etc.).		
5. ASSETS* State value of car, home, bank deposits, inmate accounts, bonds, stocks, etc.		
6. OBLIGATIONS* Itemize monthly rent, installment payments, mortgage payments, child support, etc.		
7. CONTRIBUTION TOWARD ATTORNEY COSTS I understand that I may be required to contribute to the cost of an attorney. Date: _____ Signature: _____		

*Use reverse side for additional information/comments.

ORDER

8. _____
Name Bar no.

9. The petition is denied because _____
is appointed to represent the defendant.

District Court Endorsement (felony cases only)	
Date	Date
Judge	Bar no.

Date	Date
Judge	Bar no.