

IN THE SUPREME COURT FOR THE STATE OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN,

Supreme Court No. \_\_\_\_\_

Plaintiff-Appellee,

Court of Appeals No. 319998  
(Leave blank.)

v DARRIN CRAWFORD  
(Print the name you were convicted under on this line.)

Trial Court No. LC NO. 13-007629-FC  
(From Court of Appeals decision.)

Defendant-Appellant.

(See Court of Appeals brief or Presentence Investigation Report.)

**INSTRUCTIONS:** Answer each question. Add more pages if you need more space. **NOTE:** If you are appealing a Court of Appeals decision involving an administrative agency or a civil action, you will have to replace **this page** with one containing the relevant information for that case.

PRO PER APPLICATION FOR LEAVE TO APPEAL

1. I was found guilty on (Date of Plea or Verdict) DECEMBER 5, 2013

2. I was convicted of (Name of offense) ASSAULT WITH INTENT TO MURDER, FELONY IN POSSESSION AND FELONY FIRE ARM (SECOND OFFENSE)

3. I had a  guilty plea;  no contest plea;  jury trial;  trial by judge. (Mark one that applies.)

4. I was sentenced by Judge ULYSSES W. BOYKINS on 12-19-13  
(Print or type name of judge) (Print or type date you were sentenced)

in the WANYE County Circuit Court to 23 years \_\_\_\_\_ months  
(Name of county where you were sentenced) (Put minimum sentence here)

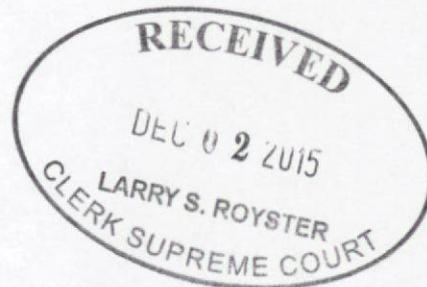
to 35 years \_\_\_\_\_ months, and to 5 years \_\_\_\_\_ months to 5 years \_\_\_\_\_ months. +3YRS  
(Print or type maximum sentence) (Minimum sentence) (Maximum sentence)

I am in prison at the CHIPPEWA CORRECTIONAL FACILITY in KINCHELOE, Michigan.  
(Print or type name of prison) (Print or type city where prison is located.)

5. The Court of Appeals affirmed my conviction on OCT. 13, 2015  
(Print or type date stamped on Court of Appeals decision)

in case number 319998. A copy of that decision is attached.  
(Print or type number on Court of Appeals decision)

6.  This application is filed within 56 days of the Court of Appeals decision. (It MUST be received by the Court within 56 days of date on Court of Appeals decision in criminal cases and 42 days in civil cases. **Delayed applications are NOT permitted, effective September 1, 2003.**)



PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

DARRIN CRAWFORD, Defendant-Appellant

CA No. 319998

INSTRUCTIONS: In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

GROUND S - ISSUES RAISED IN COURT OF APPEALS

7. I want the Court to consider the issues as raised in my Court of Appeals brief and the additional information below.

ISSUE I:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

DID THE TRAIL COURT COMMIT PLAIN AND REVERSIBLE STRUCTURAL ERROR WHEN IT FAILED TO ADMINISTER THE REQUIRED OATH TO THE JURY THAT HEARD AND DECIDED THE DEFENDANT-APPELLANT'S TRAIL AT THE COMPLETION OF JURY SELECTION AND PRIOR TO THE PRESENTATION OF EVIDENCE?

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- 1. The issue raises a serious question about the legality of a law passed by the legislature.
- 2. The issue raises a legal principle which is very important to Michigan law.
- 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in "B" apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

THE ERROR IS: APPLYING THE RULING IN CAINS CASE. A CASE WHERE HIS JURY WAS IMPROPERLY SWORN. TO MY CASE, A CASE WHERE MY JURY WAS NEVER SWORN. STATUTE MCL. 768.14 AND COURT RULE MCR 2.511(H)(1) MANDATES AN OATH BE ADMINISTERED TO JURORS IN ALL CRIMINAL CASES. IT IS NOT UP TO THE COURTS TO ASSUME OR DECIDE IF JURORS "UNDERSTAND" AND "WILL CARRY OUT" THE DUTIES EMBODIED IN INSTRUCTIONS OR THE OATH. IT IS THE OATH THAT ENSURES THE DEFENDANT, COURTS, ETC THAT THE JURORS "UNDERSTAND" AND "WILL CARRY OUT" THESE DUTIES. THAT ASSURES MY CONSTITUTIONAL RIGHTS TO A FAIR AND IMPARTIAL TRAIL. AND WHEN "NO OATH" WAS ADMINISTERED IT RENDERS MY TRAIL INVALID. AND NOT RELIABLE TO DETERMINE GUILT OR INNOCENCE. AND THIS FATAL DEFECT IN COURT PROCEEDINGS DOES SERIOUSLY AFFECT THE FAIRNESS, INTEGRITY, OR PUBLIC REPUTATION OF PROCEEDINGS. WHICH REQUIRES A NEW TRAIL. UNDER MICH. LAW. SEE ATTACHED PGS.

## ISSUE ONE

The Court reviews questions of law de novo. People v. Sierb, 456 Mich. 519,522; 581 NW2d 219 (1988). Statutory interpretation is a question of law that is reviewed de novo on appeal. People v. Parker, 288 Mich. App. 500,504; 795 NW2d 596 (2010). The primary goal of statutory interpretation is to give effect to the Legislatures intent focusing on the statutes, plain language. Klooster v. City Of Charlevoix, 488 Mich. 289,296; 795 NW2d 578 (2011). Constitutional question are reviewed de novo. Wayne Co. Retirement Sys. v. Wayne Co., 301 Mich. App. 1,24; 836 NW2d 278 (2013).

The Court of Appeals application of this Court's recent decision in People v. Cain, \_\_\_ Mich. \_\_\_; \_\_\_ NW2d \_\_\_ (2015); 2015 Mich. LEXIS 1636 (2015), was an abuse of discretion and inherently wrong. An abuse of discretion is found were an unprejudiced person considering the facts on which the trial court acted, would say there is no justification or excuse for the ruling. People v. Ullah, 216 Mich. App. 669,673; 550 NW2d 568 (1996); Gamel v. City Of Cincinnati, 625 F3d 949,951 (6th. Cir. 2010). The Court Of Appeals held:

"Our analysis of this issue is governed by our Supreme Court's recent decision in People v. Cain, \_\_\_ Mich. \_\_\_; NW2d \_\_\_ (2015). For the reasons discussed below, we conclude that, in light of Cain, the failure to properly swear the jury does not require reversal of defendant's conviction."  
Slip Opinion at pg. 2

When the oath is not given, as in Appellants case, that presumption cannot obtain... The trial courts instructions here prove nothing because their efficacy is based on an Oath that was never taken by jurors. United States v. Powell, 469 US 57,66; 105 Sct 471; 83 LEd2d 461 (1984)(Juror's of course, take an oath to follow the law as charged, and they are expected to follow it). United States v. Padilla, 639 F3d 892,897 (9th. Cir. 2011)(the significance of the sworn jury is well established. When a jury is sworn, it is entrusted with

the obligation to apply the law, and we in turn presume that juries follow instructions given to them throughout the course of the trial).

The defendant has a right to assurance that those selected to decide his fate fairly in accordance with the law and evidence will carry out that task under the solemn obligation of an Oath. To be tried by a fair and impartial jury is a Constitutional guarantee. A long line of cases and court's, along with this Court has uniformly held that the failure to swear in a Jury, requires that a verdict be set aside, the failure to swear in a Jury renders that Jury verdict a nullity and is and is reversible, a Jury is not impaneled until an Oath is administered. State v. Davis, 52 VT 376, 381 (1880). Jury not impaneled until oath is Administered. see People v. Pribble, 72 Mich. App. at 224-225; Clemons, 177 Mich. App. 528-530; Duff, 161 SW at 685; Brown v. State, 220 SW 552,554 (TX CT App. 2007), Spencer v. State, 281 GA 533,534; 640 SE2d 267 (2007); ExParte Benford, 935 So2d 421,429 (ALA 2006).

Reversal is required under the Fourth Carines, prong, because failure to swear in the Jury, is a structural error, rendering the proceedings fundamentally unfair. Administering the Oath to juror is "necessary to protect the ... fundamental right of Trial by an impartial jury was emphasized by the Michigan Court Of Appeals in People v. Allan, 299 Mich. App. 205. Because administration of the Oath is necessary to ensure the fundamental right to a Trial be an Impartial Jury. It necessarily follows that the failure to administer the Oath "necessarily renders a criminal trial fundamentally unfair or an unreliable vehicle for determining guilt or innocence. Rivera, 556 US at 160; see also Neder v. United States, 527 US 1,8-9; 119 Sct 1827; 144 LED2d 35 (1999).

Failure to administer the Oath to the Jury is not an error "occurring" quantitatively assessed in the context of other evidence presented. Fulminate,

499 US at 307-308. Rather, it is a defect that affects the framework within in which the trial proceeds. see Watkins, 247 Mich. App. at 26; see also Neder, 527 US at 8-9.

The Sixth Amendment guarantees a Sworn Jury. see US Constitution AM VI; Duncan v. Louisiana, 391 US 145; 88 Sct 1444; 20 LEd2d 491 (1968), see also Const. 1963, art. 1 §20; see e.g. State v. Barone, 329 UR 210,226; 986 P2d 5 (1999) (The jury Oath is designed to vindicate a defendant's fundamental rights to a fair trial before an impartial jury) State v. Godfrey, 136 Arz. 471,473; 666 P2d 1080 (Ariz. App. 1983) (the Jurors Oath is essential element of the constitutional guarantee to a trial by an impartial jury); Steele v. State, 446 NE2d 353,354 (Ind. App. 1983), (most importantly the Oath serves as a safeguard of a criminal Defendant's Constitutional right to Trial by a Impartial Jury), Howard v. State, 80 TEX Crim. 588,592; 192 SW 770 (1917) (the defendant tried by an unsworn jury, was deprived of a Constitutional as well as statutory right); Slaughter v. State, 100 GA 323,330; 28 SE 159 (1987) (A conviction by an unsworn jury is a mere nullity...) see also 47 AM Jur 2d, Jury §192, pp 803-804; 50A CJS, Juries §520, p. 689.

In Williams v. Florida, 399 US 78; 90 Sct 1893; 26 LEd2d 446 (1970), the Supreme Court addressed whether the Sixth Amendment guaranteed a 12-person jury. Apodaca v. Oregon, 406 US 404,410-411; 92 Sct 1628; 32 LEd2d 1841 (1972). The purpose of the Jury Trial is fulfilled; jurors must "have the duty" to deliberate and "the oath imposes that duty". "Without it those acting a jurors serve without solemn obligation or sanction, and the essential purpose of the Jury Trial is left unfulfilled". 2 Story, Commentaries, p. 541 (stating that the core function of a trial by Jury cannot be achieved <sup>but</sup> by "by the firm and impartial verdict of a Jury sworn to do right, and guided by legal evidence and a sense of duty").

Moreover, the Oaths directive to conscientiously deliberate and examine the evidence impartially counters the threats of complacency and overzealousness that are more apt to be found in a single, professional arbiter or prosecutor, the two evils the Jury intended to ward off. see Williams, 399 US 97, 100 (the purpose of the Jury is to prevent oppression by government "by providing a defendant" an inestimable safeguard against the corrupt or overzealous prosecutor and against the compliant, biased, or eccentric judge")(quotations omitted). The Oath serves as the very benchmark for determining whether a defendant was afforded an impartial jury, as guaranteed by the Sixth Amendment. see Wainwright v. Wit, 469 US 412,423; 105 Sct 844; 83 LEd2d 841 (1985).

The Right to a Sworn Jury - guaranteed by the constitution- is a "basic protection" whose precise effects are unmeasurable, but without which a criminal trial cannot reliably serve its function. As states in Sullivan v. Louisiana, 508 US 275,281; 113 Sct 2078; 124 LEd2d 182 (1993); quoting Rose, 478 US at 577. The Deprivation of the right, with consequences that are necessary unquantifiable and indetermine, unquestionably qualifies as a "Structural Error", so intrinsically harmful as to require automatic reversal. (i.e. "Effect substantial rights) without regard to their effect on the outcome) Marcus, 560 US at 263. A Plain, Structural, Constitutional error more than satisfy the third and fourth Carines prong. Vaughn, 491 Mich. at 666 and when the error of this magnitude being plain, structural and constitution. we grant automatic reversal. Duncan, 462 Mich. at 51.

The failure to swear in Appellant's Jury as mandated by MCL 768.14, satisfies the third and fourth Carines, without an additional showing of the outcome determinative prejudice. The Court of Appeals ruling heavily <sup>RELY</sup> ~~rely~~ upon the Trial Court's instructions as a meaningful substitute for the

required Oath, and being told these Instructions by a Judge "means" they understand these duties, and their task and would carry them out ... simply because they were "told" and "reminded too". The law cannot make a presumption of what Jurors understand and would carry out, unless the Jury themselves swear under oath to do so, and that they do.

It is also insufficient to say "the Voir Dire Oath", covers what is embodied in the "the Jurors Oath". The voir dire oath is an "assurance oath" that calls for these "perspective jurors" who are not yet jurors to "attest to some factual matters" (i.e. their qualifications as jurors). The oath that was not given "Jurors Oath" is by contrast a collective "promissory oath", that obliges the swearer to observe a specified course of conduct in the future (i.e. to decide the case fairly and in accordance with the law and based on evidence).

At voir dire these members have not yet become jurors, they are merely "perspective jurors", it isn't until after these perspective jurors are selected and sworn by the "Jurors Oath" which impanels them as a Jury, and gives them the responsibilities and duties to decide the case fairly and in accordance with the law based upon the evidence. They must observe a specified course of conduct as a juror. Until the Jurors Oath is sworn to by these perspective jury members, they are not a jury. It is not the trial court's instruction or being reminded of them that makes these members a jury, it is the Jury Oath.

This assures the Defendant and Court that they understand these instructions clearly and that they will carry them out according to the law and the Trial Courts Instructions. As mandated by MCL 768.14. It is the Jury Oath that "SHALL BE ADMINISTERED - NOT TRIAL COURT INSTRUCTIONS ... AND THIS STATUTE DOESN'T PROVIDE FOR "ALTERNATES OR SUBSTITUTES"!

In People v. Pribble, 72 Mich. App. 255, Pribble was granted a Mistrial after it was discovered that the Jury had not been given its oath prior to the commencement of the proceedings. Id. at 221. He was then given a second trial, and he was convicted. Id. at 222. The Defendant Appealed his conviction arguing that his retrial was prohibited by the Double Jeopardy clause of the United States and Michigan Constitutions. US Const. AM V; Const. 1963, art. 1 §15. Id. The Court rejected the Defendant's argument and affirmed his conviction, holding "that the trial Court's failure to swear the jurors in before the beginning of the defendant's first trial was a "fatal defect" that would have rendered invalid a resulting conviction in the first trial." Id at 225-226.

In so holding the Court recognized that the right to be tried by an impartial jury was a constitutional guarantee. It is the same opinion which this court also ruled jeopardy did not attach because the Jury had not been sworn and rendered these proceedings invalid, therefore, Jeopardy did not attach, which was also the ruling in People v. Allan, 299 Mich. App. 205.

In People v. Clemons, 177 Mich. App. 523,528-530; 442 NW2d 717 (1989), these same legal principles were discussed and decided. In this case, Clemons first trial his Jury was sworn in. Id at 529. The Trial Court subsequently granted Defendant a mistrial on unrelated grounds and began a second trial with 10 of the original jurors and only administered the oath to the two (2) new jurors, not the original 10 jurors. Id. This Court held that the "original 10 jurors should have also been given the oath before the start of the second trial because the declaration of a mistrial rendered all prior trial proceedings invalid. Id. Since Defendant's second trial was conducted with 10 unsworn jurors, it reversed the Defendant's conviction and remanded the case for a new trial. Id at 530. In so holding, the Court reaffirmed Pribble,

emphasizing that "the required oath is necessary to protect the Defendant's fundamental rights of a trial by an impartial jury". Id at 529-530, citing Pribble, 72 Mich. App. at 224.

Appellant argues his case is ~~noting~~<sup>NOTHING</sup> like or can the ruling in Cain be applied to his case. In Cain, his Jury was sworn, sworn by the wrong Oath, but never the less sworn. In this case Appellants Jury was never sworn as what took place in People v. Allan, 299 Mich. App. 20; People v. Pribble, 72 Mich. App. 219; and People v. Clemons, 177 Mich. App. 523.

Appellant argues that the Supreme Court's decision in Cain is inapposite to his case both factually and legally. In Cain an actual oath was given, albeit the wrong Oath, it was an oath just the same. In Appellant's case NO OATH whatsoever was given and a group of individuals were allowed to hear the case, decide the evidence and render a verdict, without every being confirmed as a Jury. The Court of Appeals went on to note:

"In Cain, after the jury was selected the trial court asked the jury to "stand and swear to perform your duty to try the case justly and to reach a true verdict". The Clerk then proceeded to swear in the jury but mistakenly read the oath given to prospective jurors before voir dire, asking them to "swear or affirm that you will true answers, make to such question as maybe put to you touching upon your questions to serve as jurors in the case now pending before the Court [sic][,]" and the jurors answered affirmatively.  
Slip Opinion at 2

In Appellant's case the Jury was never sworn by any means, no oath was given and a group of people impaneled and evidence taken. The Court of Appeal pointed out this fact:

"After the jury was selected, a lunch recess was taken. Following the recess, the parties stipulated that the jurors were "present and properly seated", but the transcript does not reflect that the juror's oath was administered."  
Slip Opinion at 5

From the record, even the Court did not realize that it had failed to administer an oath. The failure to administer the Statutorily mandated Jury

Oath is an usurpation of Legislative authority. A familiar canon of statutory interpretation is that court's should interpret statutory language in a manner that gives effect to all terms so as to avoid terms useless. The decision in Cain renders the mandatory language in the Statute useless. see United States v. Geltz, 187 FSupp2d 1168,1170 (SD South Dakota 2002).

The People of the State Of Michigan enacted two separate Statutes for the purposes of ensuring a fair trial. They distinguished between the oath given to the individual being considered for the jury during voir dire and the one giving to the group who will sit and judge the case being brought against one of their own. The Court Of Appeals went on to note that the Trial Court went on to mislead the jury into believing that they had taken an Oath, when in fact they had not. The Court Of Appeals correctly noted this point:

"Later, after the presentation of evidence and the parties' closing arguments, the court gave its final instructions to the jury. The court began by telling the jury: REMEMBER THAT YOU HAVE TAKEN AN OATH to return a true and just verdict,..."  
Slip Opinion at 5

The distinction between what occurred in Cain supra., and Appellants case is clear and the failure to swear in the jury here did amount to plain error affecting his substantial rights and seriously affected the fairness, integrity, and public reputation of the judiciary process. People v. Carines, 460 Mich. 376,382; 741 NW2d 61 (2007). The Jury Oath is so much apart of the fabric of the judicial proceedings that even the Judge in this case didn't realize the serious error he had made. The Sixth Amendment of the United States Constitution provides in pertinent part:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury..."  
Duncan v. Louisiana, 391 US 145; 88 Sct 1444; 20 LEd2d 491 (1968)

The question must then becomes, what makes a group of individuals a Jury?

If not the Oath Collectively taken, then what? As pointed out by Justice Viviano in his dissent in the Cain case, a jury is not a Jury unless it is sworn in by oath. The oath is what forms the Jury, the Instructions are what guides them after they have taken their oath. If no oath is given and the jury officially sworn and formed, then the instructions are of no value and serve no purpose. Justice Viviano went on to note:

"The essence of the jury is, and always has been, the swearing of the oath. This basic historic fact finds compelling support in the etymological roots of the word "jury", which can be traced back to the French words "jure" and "jurer", and the Latin word "jurare", which means "sworn", "oath", and "to swear", respectively. The English ancestor of our "jury" was called "the jurata", which itself was defined as "a jury of twelve men sworn." Furthermore, at the time of our Constitution was written, "jury" was defined as "a company of men, as twenty-four, or twelve, sworn to deliver a truth upon such evidence as shall be delivered them touching the matter in question. Nearly every definition of jury since then includes reference to swearing an oath. In other words, the oath was and has always been a defining criterion of "jury".

People v. Cain, supra., \_\_\_\_\_ Mich. at \_\_\_\_\_; 2015 LEXIS 1636

This brings to mind the age old adage "which came first the chicken or the egg"? In other words, which comes first "the Sworn Jury" or the "Instructions"? The importance of Oaths in American society is clear, for example; you don't officially become President of the United States until you take the Oath of office. President Obama had to take his Oath twice since it was messed up the first time.

Even the Justices of this Court did not become Official until after they took their Oath. Lets just say for the sake of argument that a New Justice is elected and fails to take the Oath Of Office. Is receiving instructions from the Chief Justice good enough to make this person an official member of the Court? Today it is the omission of the Jury Oath and use of an unsworn Jury, tomorrow it will be trials held before unsworn individuals pulled off the

street of less than 12 members. Where does it stop?

Appellants case also presents a question not only of fundamental fairness, but also of compliance with the mandates and dictates of the Michigan Legislature by the Court. The Courts' are not a liberty to disregard the substantive laws of this state, nor is the Court at liberty to pick and choose when to apply the laws which the people have mandated through Statutes.

"It cannot be gain said that this Court is not authorized to enact Court rules that establish, abrogate, or modify the substantive law. Shannon v. Ottawa Circuit Judge, 245 Mich. 220,223; 222 NW2d 168 (1928). Rather as is evident from the plain language of art 6 §5, this court's constitutional rule making authority extends to matters of practice and procedure. Shannon, 245 Mich. at 222-223."  
McDougall v. Shanz, 461 Mich. 15,17; 597 NW2d 448 (1999)

In other words, the Court may have the authority to disregard or modify the application of a court rule, but the Court has no authority to disregard a Legislative mandate. The language in MCL 768.14, denotes the use of the mandatory term SHALL, this indicates the intent of the legislature for this oath to be given, with no ifs, ands, or buts about it. The law is clear on both the state and Federal level that the use of the term shall is mandatory and shall not be disregarded. Lopez v. Davis, 531 US 230,241; 121 Sct 714,722; 148 LEd2 635 (2001); United State v. Franklin, 499 F3d 578,583 (6th. Cir. 2007). This Honorable Court has held:

"Generally the term shall denotes a mandatory term where as the term "may denotes a permissive or directory term."  
People v. Gaston, 496 Mich. 320,327-328; 852 NW2d 747 (2014); see also United States v. Ross, 703 F3d 856,869 (6th. Cir. 2012).

The Legislature is resumed to have intended the meaning it has plainly expressed. People v. Petty, 469 Mich. 108,114; 665 NW2d 443 (2003). If the wording or language of a statute is unambiguous, no judicial construction is required or permitted and the statute must be enforced as written. Id. People v. Williams, 268 Mich. App. 416,425; 707 NW2d 624 (2005). In this case the

language in the statute is undoubtedly mandatory. In essence what you have here, that you didn't have in the Cain case is a situation where the Court not only disregarded the mandates of the Legislature but the Judiciary playing word semantic to justify this impermissible act.

"An anchoring rule of jurisprudence, and the foremost rule of statutory construction, is that courts are to effect the intent of the Legislature. To do so, we begin with an examination of the language of the statute. If the statute's language is clear and unambiguous, then we assume that the Legislature intended its plain meaning and the statute is enforced as written. A necessary corollary of these principles is that a court may read nothing into an unambiguous statute that is not within the manifest intent of the Legislature as derived from the words of the statute itself."

Roberts v. Mecosta Co. Gen. Hosp., 466 Mich. 57,63; 642 NW2d 665 (2002).

The Legislature intended for the Jury to be sworn, or else they would not have written this statute and used purely mandatory language in it. As a matter of procedural due process and the right to a fair trial, as provided by the Sixth and Fourteenth Amendments, the Court cannot simply disregard its duty and replace or substitute the Legislative mandates because it is convenient. Appellant was entitled to trial by a Sworn Jury.

"The requirement of due process is merely the embodiment of the English sporting idea of fair play. In the case of Lisenba v. California, 314 US 219; 162 S Ct 280; 86 LEd (1941), the Court said: as applied to a criminal trial, denial of due process is the failure to observe the fundamental fairness essential to the very concept of justice."

Dodge v. Det. trust Co., 300 Mich. 575,618; NW2d (1942)

Now this Court might say that the Appeals Court was relying on the doctrine of "Stare Decisis" when it followed the decision of this Court in Cain. see Griswold Props, LLC v. Lexington Ins. Co., 276 Mich. App. 551,563; 741 NW2d 549 (2007); Meicer v. Awaad, 299 Mich. App. 655,670; 832 NW2d 251 (2013). That standard does not apply here since there is a serious distinction between what happened in Appellant's Trial and what happened in Cain. Again in

Cain the Jury was given an Oath, in Appellant's case they were not.

#### CONCLUSION

As Justice Viviano so eloquently pointed out that the oath is part of the constitutional guarantee of trial by jury. In fact, with a remarkable degree of consensus, court's across the nation agree that swearing the jury is an integral, essential, fundamental component of a fair trial. Cain, Supra., Mich at \_\_\_\_\_. As the United States Supreme Court has corrected noted, "Jeopardy does not attach unless the Jury is Sworn". Crist v. Bretz, 437 US 28,38; 98 Sct 2156; 57 LEd2d 29 (1978); People v. Lett, 466 Mich. 206,215-216; 644 NW2d 743 (2002). If Jeopardy never attaches, then any verdict would be void. A defendant sent to prison based on a void verdict is prejudice just as bad as a person sent to prison without a trial at all. This Court cannot let this conviction stand and still maintain the trust, integrity and sanctity of the judicial process.

#### RELIEF REQUESTED

WHEREFORE, for the reason set forth above and in the attached Brief, Appellant prays this Honorable Court will reverse and remand his case for a new trial in light of the fact his Jury was never sworn.

PRO PER APPLICATION FOR LEAVE TO APPEAL (cont.)

DARRIN CRAWFORD, Defendant-Appellant

CA No. 31999B

**INSTRUCTIONS:** In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8, on page 7.

**ISSUE II:**

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

DID THE INSUFFICIENT EVIDENCE PRESENTED DURING DEFENDANT-APPELLANT'S TRIAL, TO SUPPORT THE JURY'S VERDICT OF GUILTY OF ONE COUNT EACH OF ASSAULT WITH INTENT TO MURDER (AWIM), POSSESSION OF A FIRE ARM BY A FELON WHILE INELIGIBLE, AND POSSESSION OF A FIREARM IN THE COMMISSION OF A FELONY, SECOND OFFENSE (F.F 2<sup>ND</sup>) CONSTITUTE A DENIAL OF THE DUE PROCESS OF LAW GUARANTEED BY THE FIFTH AMENDMENT TO THE US. CONSTITUTION?

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- 1. The issue raises a serious question about the legality of a law passed by the legislature.
- 2. The issue raises a legal principle which is very important to Michigan law.
- 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

FACTS THAT WERE OVER-LOOKED! ELEMENTS OF AWIM ARE: (1) AN ASSAULT (2) INTENT TO KILL, AND (3) IF ASSAULT WAS SUCCESSFUL, KILLING WOULD BE MURDER. IN MR. LIGHT'S OWN FIRST SWORN TESTIMONY AT PRE-EXAM 8-22-13, PG. 9, 21-25 PG. 10, 1-17, MR. LIGHT ALLEGES "HE WAS HIT IN THE BACK OF HIS HEAD W/ GUN, IT "WENT OFF" AND AS A RESULT OF THIS TWO SHOTS TOOK EFFECT AND HE HAS "3" BULLET HOLES AND A BULLET LEFT IN HIS BACK". MR. LIGHT'S SWORN TESTIMONY FAILS TO MEET ELEMENTS (2) INTENT TO KILL (3) IF ASSAULT SUCCESSFUL, WOULD BE MURDER, BY HIS TESTIMONY IT TAKES AWAY ELEMENT 2 AND 3, IT CLEARLY SAYS THE "INTENT" WAS TO HIT, NOT SHOT AND THE GUN WENT OFF... SEE PRE-EXAM TRANSCRIPT EXHIBIT A. (2) ACCORDING TO MR. LIGHT'S MEDICAL RECORDS AND POLICE STATEMENT.. HIS INJURY WAS AN ACUTE GRAZE WOUND TO HIS BUTTOCKS WHICH WOULD NOT HAD MADE HIS ALLEGGE ASSAULT MURDER... NEXT PAGE -

## ISSUE TWO

The Court views evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. People v. Hoffman, 225 Mich. App. 103,111; 570 NW2d 146 (1997). All conflicts with regard to the evidence are resolved in favor of the prosecution. People v. Terry, 224 Mich. App. 447,452; 569 NW2d 641 (1997). The Court will not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. People v. Ortiz, 249 Mich. App. 297,301; 642 NW2d 417 (2001).

Due process of law forbids a state from convicting a person of crime without proving the elements of that crime beyond a reasonable doubt. US Const. Am. V and XIV, Const. 1963, art. 1 §17, In re Winship, 377 US 358; 90 Sct 1068; 25 LEd2d 368 (1970); Bunkley v. Florida, 538 US 836; 123 Sct 2020,2023; 155 LEd2d 1046 (2003). The due process clause requires that a defendant must be convicted of every element necessary to constitute the crime beyond reasonable doubt. Charles v. Foltz, 741 F2d 834,840 (6th. Cir. 1984); Wofford v. Straubs, 27 Fed. Appx. 517,521 (6th. Cir. 2001).

Appellant contends that he is not guilty of the crime of Assault with intent to murder and that the state failed to carry its burden of proof. The elements of assault with intent to commit murder as (1) and assault. (2) with and actual intent to kill. (3) which, if successful would make the killing murder." People v. Davis, 216 Mich. App. 47,53; 549 NW2d 1 (1996); People v. Plummer, 229 Mich. App. 293,305; 581 NW2d 753 (1998).

If the testimony of Mr. Light is to be believed, along with his medical record's and police reports. They proved beyond a reasonable doubt that there is no intent to kill. Mr. Light's alleged injuries to his Buttocks would not

have killed him. The alleged shooting was to have occurred during a fight between Appellant and Mr. Light, that being true would diminishes the specific intent necessary to prove Murder. Murder is clearly defined as the intentional killing of a Human Being in undisturbed by "Hot Blood". People v. Plummer, supra.

To convict a defendant of assault with intent to Murder it is not necessary to find that there was actual intent to kill. Maier v. People, 10 Mich. 212,217-218 (1862), People v. Brown, 196 Mich. App. 153,159; 492 NW2d 770 (1992). While lesser forms of malice can support conviction for a completed murder, specific intent to kill is the only form of malice which supports a conviction of assault with intent to murder. People v. Guidoda, 140 Mich. App. 294,297; 364 NW2d \_\_\_\_\_. It must be shown that the defendant intended to kill the victim under circumstances that did not justify, excuse or mitigate the crime. People v. Lipps, 167 Mich. App. 99,105; 421 NW2d 586 (1988).

In People v. Sullivan, 231 Mich. App., 510; 586 NW2d 578 (1998), aff'd 461 Mich. 992 (2000), the Michigan Court of Appeals noted that:

"the evidence of provocation distinguishes the offense of manslaughter from murder. The provocation necessary to mitigate a homicide from murder to manslaughter is that which causes the defendant to act out of passion rather than reason. People v. Towns, 391 Mich. 578,590; 218 NW2d 136 (1974). Case law has consistently held that provocation must be adequate, namely that which would cause a reasonable person to lose control. Id at 518]

Mr. Light's medical reports are proof that he doesn't have a bullet inside of him, in his back. During cross-examination at trial Mr. Light's Medical Records indicated he told the attending physician he did not know when and where he was shot and when his statements were read to him, he denied making them. In his Testimony he acknowledged he did not see Appellant shot him. [Trial Transcript 12/2/13, pg. 75].

Appellant contends that Mr. Light's testimony is false and perjured. His testimony is undeniable proof of his intent to deceive the courts. Therefore, he cannot be looked at as a credible or reliable witness. Mr. Light's testimony, medical records which include his Emergency Room Treatment Notes, Final Report pages 1 & 2, CT- Lumbar Spine W/O Contrast, CT-Thoracic Spine W/O Contrast. [see Discharge Summary Report].

Based on Mr. Light's own testimony and statements made to hospital workers and police, he didn't see Appellant shot him. Mr. Light clearly lied about having a bullet still in his back to deceive the Courts and this along with all the contradictions in his story prove he is not credible nor reliable. Mr. Light nor any witness used by the prosecution ever positively identified Appellant as the person who shot Mr. Light. Not one witness.

Appellant not only argues he did not possess and fire a gun, he argues that the prosecution presented "no "evidence". That he fired or possessed the 380 weapon found next to him. Appellant argues that whenever any weapon is possessed and fired. There is always physical evidence found on the weapon, the person who fired it, the victim, cloths and at the scene of the crime. No person who fires a weapon as many times as these witnesses testified to, without leaving any trace or physical evidence behind.

Not only were there no 380 shells casing found. No fragments, DNA, gun powder residue and not blood was found on the weapon. No blood was found not only on the 380 weapon, but no blood was found on any of the other items (i.e. Keys, Holster, Live Rounds or the greyish-white box of bullets) found next to Appellant, who lay wounded in a pool of his own blood in a semi-conscious state.

To simply say because these items were found next to or in "proximity" to the Appellant is sufficient to say he possessed them or even knew they lay

next to him, is not sufficient to prove his fired of possessed them. The Court's or any rational trier of facts must also consider all these other factors when you weigh whether or not the circumstantial evidence presented by the Prosecution out weights the facts and physical evidence presented here.

This is what forms the basis for Appellant's argument of the evidence being insufficient to find his guilt beyond a reasonable doubt. Officer Mary Gross's testimony wasn't looked at in totality. She testified to being an evidence technician who had experience in this field as a professional. She testified to:

1. Her, along with her team being called to this crime scene at 2:00am, and knowing it was dark.
2. Using LED Lights.
3. Doing not a poor or fair job in searching for evidence, but doing a good job.
4. In her search she was able to locate other 40 caliber shell casings, copper bullet fragments, live 380 rounds, along with other evidence.
5. A pool of blood by a truck where Mr. Light lay.
6. A T-Shirt covered in blood believed to be the defendant's, a 380 weapon, holster, 2 live rounds, white-greyish box of ammunition, set of keys. None of these items found had any blood on them and they lay next to the blood covered Appellant.
7. A sketch which she drew herself showed a depiction of the crime scene.

Event though her testimony is she didn't recall if she used a metal detector or not, could any rational trier of fact say or infer that Officer Mary Gross, and her team came to this crime scene at 2:00am, knowing full well it was dark and being professionals who had done this Job many times. Doing "a good job". That they did not use the proper equipment to aid in their search. A rational trier of fact would have to take into consideration, that Officer Gross and her team would have at least found "some" evidence at this crime

scene to show this 380 weapon was fired as many time as it was said to have

been fired?

Considering all the other evidence they found, it would be safe to say as many times as this 380 weapon was alleged to be fired, Officer Gross and her team would have found at least "One" fired empty shell casing or a bullet fragment lodged somewhere. Also a rational trier of fact would have to conclude that Officer Gross testified to finding the 380 weapon with shell casing jammed inside of it. How can a weapon be fired with a shell jammed in it? Also the testimony of Officer Sniigeliski is being overlooked. He testified to coming to this crime scene and witnessing:

1. The Appellant being shot and bleeding heavily.
2. The Appellant holding his wounds covered in blood.
3. Finding a Bloody T-Shirt next to Appellant also covered in blood.
4. He also testified that Mr. Light was also bloody.
5. He also testified to the items being found next to Appellant not having any blood on them.

Also entered into evidence is a 911 recording. In this 911 recording T. Turner testified to being on the phone with 911 at the same time she shot Appellant. It was alleged that Appellant shot at B. Johnson, J. Jones and R. Turner. Yet on the 911 recording the only shots you hear are the 5 shots T. Turner admitted she fired at Appellant. If any shots were fired by Appellant, why aren't they also heard in the 911 recording? In the 911 recording you can clearly hear voices and traffic and out-side winds blowing. How is it possible to clearly hear these sounds and T. Turner's shots, but not hear any shots allegedly fired by Appellant, if he was allegedly shooting at the same exact time in the recording?

The Court has overlooked, here proximity to this weapon and items are

insufficient to prove Defendant possessed and fired the 380 weapon next to him and the Appellant never acknowledged he was aware or knew this weapon or items were laying next to him. No witness testimony, not even the alleged victims testimony is certain and identify Appellant as the person who shot Fred Light.

T. Turner first told Police and admitted during trial that the weapon she saw twice was a Black Revolver. Not a chrome 380 and B. Johnson was first asked what kind of weapon he saw? He could not provide an answer. (see Police Statement). B. Johnson and T. Turn's testimony was considered by the Jury and Appellant was acquitted of the crimes against B. Johnson.

Fred Light testified to hearing people at the crime scene yell "Rodney has a gun". [see Preliminary Examination Transcript 8-22-13, pg. 12-21]. Appellant argues that all these very important, undeniable proofs were overlooked by his Jury, as well as, the Michigan Court Of Appeals. All these important points and undeniable proofs must be considered when one weighs whether or not there was sufficient evidence to find defendant guilty beyond a reasonable doubt. When any rational trier of fact reviews all the evidence in totality it is "CLEAR" and "OBVIOUS" that the evidence that was present to the Jury was insufficient and did not meet the required elements of the crime of assault with intent to murder. Nor did it meet the required legal standard to find him guilty beyond a reasonable doubt.

Appellant argues that all of these undeniable proofs are in his favor, not the prosecutions and help to support he was wrongfully convicted of crimes, which constitutes a denial of his right to due process of law guaranteed by the Fourteenth Amendment to the United States Constitution. These undeniable proofs show "NOT ONE" of these witnesses are credible nor reliable, and they also go to prove without doubt there was no evidence presented during his trial to prove he is guilty of any of Assault With Intent To Murder, Felon In

Possession Of A Weapon and Felony Firearm. Appellant humbly ask this Court not to just look at the testimony, but to look at all the evidence involved in this case.

The most important Legal Question the Appellant ask this Honorable Court and any rational trier of facts is: "How is it possible without a reasonable doubt-when one considers all the evidence in totality that the Appellant came to this crime scene with the intent to kill and during a fist fight with Mr. Light, Appellant pistol whipped Mr. Light and shot Mr. Light, then turned his attention to Brad Johnson, Jeronte Jones and Rodney Turner shooting at them. Reloading a 7 round magazine and then stumbling across a busy two-way street, holding himself, bloody and leaving Mr. Light Bloody carrying a 380 weapon, its holster, a white-greyish box of ammunition, 2 live rounds, set of keys, without dropping any of it or getting blood on any of it! But, managing to be covered in Blood himself, placing all these items next to himself.

According to witnesses considered to be reliable and credible, shooting more than 15 times. without leaving not one trace or physical evidence behind or any evidence , DNA on the items that were fopund? Appellant submits that whenever a weapon is fired as many time and a victim is shot by a weapon, there is always evidence left behind to corroborate witness testimony.

Even the 911 recording is a undeniable proof, the only weapon shot at this crime scene was the .40 caliber weapon, and evidence was collected by Officer Gross and her team to support that, no rational trier of facts in light of all this say the Appellant possessed the found jammed 380 weapon and fired it. Shooting Mr. Light, without leaving any evidence behind. Prosecution had "no evidence" to support a guilty finding of these crimes.

The most essential points or question is , is if this "ample testimony" is true and to be believed by anyone. How did the Defendant posses and fire the

380 weapon found next to him without leaving any traces of evidence on the weapon itself? Appellant submits "It's Impossible" to use, possess and fire any weapon without leaving any trace of evidence on the weapon itself!.

It has been overlooked that Officer Gross did not collect evidence at this crime scene. She found a 40. Caliber weapon, .40 Caliber shell casings, and copper bullet fragments, which all prove a .40 Caliber weapon was fired at this crime scene. She collected a 380 weapon with a shell stuck inside of it, a box of 380 ammunition, 2 live rounds, a bloody T-Shirt, set of keys, a 380 holster.

None of these items of evidence she collected had the Appellant's Blood or DNA on it. She found no shell casings to indicate the 380 was even fired beyond the one shell casing jammed in it. How can such important evidence be overlooked when it outweighs the testimony of all these witnesses by 10-1 and no witness, not even the victim himself can say for certain, Appellant shot him.

In any event, Appellant's actions may have indicated a level of intent consistent with assault with intent to do great bodily harm. That level of intent has been defined as "an intent to do serious injury of an aggravated nature." People v. Ochitski, 115 Mich. 601,608; 73 NW 889 (1889). The essential elements of assault with intent to do great bodily harm less than murder are "(1) an attempt or threat with force or violence, to do corporal harm to another (an assault); and (2) an intent to do great bodily harm less than murder. MCL 750.84; People v. Brown, 267 Mich. App. 141,147; 703 NW2d 230 (2005). To sustain a conviction of assault with intent to commit great bodily harm less than murder, the defendant must have intended to do serious or permanent bodily injury to the person assaulted. People v. Howard, 179 Mich. 478,487; 146 NW 315 (1914).

### CONCLUSION

Appellant contends that the fight which preceded the alleged shooting, would have diminished the elements necessary to establish an intent to murder. The anger caused by the physical confrontation would have made any rational person act irrational and unreasonable. It is this mental element that is missing in this case. The fact that there is no actual physical evidence which supports the Prosecution's claims that Appellant discharged a weapon, support his claims, coupled with the fact the only shell casings and bullets that have been recovered were those fired into Appellant and which has left him physically handicapped and disabled

WHEREFORE, for the reasons set forth above, Appellant prays this Honorable Court will Vacate his Conviction and Reverse and Remand his case for a new trial

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

DARRIN CRAWFORD, Defendant-Appellant

CA No. 319998

**INSTRUCTIONS:** In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

**ISSUE III:**

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

EIGHTH AMENDMENT: CRUEL AND UNUSUAL PUNISHMENT DUE TO HIS POOR HEALTH AND HARSH SENTENCE...

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- 1. The issue raises a serious question about the legality of a law passed by the legislature.
- 2. The issue raises a legal principle which is very important to Michigan law.
- 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

IN SOLEM V HELM, SUPRA, CONTINUES TO CONTROL THE LAW ON ISSUES OF CRUEL AND USUAL PUNISHMENT, WHICH IS PROHIBITED BY THE EIGHTH AMENDMENT AND THE CONSTITUTION. DEFENDANT NOT ONLY ARGUES HIS HEALTH IS POOR.. BUT GIVEN HIS ARGUMENT IN ISSUE 1 AND 2.. IT IS CLEARLY AN INJUSTICE TO CONVICT ANYBODY AND SENTENCE THEM TO A DISPROPORTIONATE SENTENCE. WITH-OUT ALL THE JURY BEING SWORN - A CONSTITUTIONAL VIOLATION.. AND NOT HAVING SUFFICIENT EVIDENCE, ALONG WITH THIS SENTENCE.. IT DOESNT EVEN ADD UP TO THE CRIME HE IS EVEN CHARGED WITH.. THOSE WHO ARE FOUND GUILTY OF MURDER RECIEVE LESS TIME....

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

DARRIN CRAWFORD, Defendant-Appellant

CA No. 319998

**INSTRUCTIONS:** In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

**ISSUE IV:**

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

OVG SCORE - THE TRIAL COURT ERRED WHEN IT SCORED OVG AT 25 BECAUSE  
THIS SCORE REQUIRED BY PRE-SENTENCE REPORT WAS 0

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- 1. The issue raises a serious question about the legality of a law passed by the legislature.
- 2. The issue raises a legal principle which is very important to Michigan law.
- 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

THIS OVG SCORE WAS INCORRECT. PRISONER OR DEFENDANT SCORES WERE INCORRECT  
AND IT WASN'T ASSESSED HIS PRIOR CONVICTIONS WERE ALL MORE THAN 26 YEARS  
OLD. AND IT HAD BEEN 10 YEARS SINCE HE WAS PAROLED AND NOT BEEN IN  
TROUBLE.. WHICH WOULD HAVE LOWERED HIS SCORING... AND PLACED HIM  
IN A DIFFERENT ALTOGETHER GRID SCORE. THIS ALTOGETHER MADE IT MORE  
THAN 36 YEARS SINCE DEFENDANT HAD COMMITTED ANY CRIME. THIS  
WOULD HAVE LOWERED HIS PRIOR VARIABLE SCORE AND OFFENSE VARIABLE. CRIMES  
MORE THAN 10 YEARS OLD SHOULD NOT HAVE BEEN ASSESSED IN SCORING VARIABLES.  
THUS MAKING HIS INFORMATION IN PRE-SENTENCE REPORT IN ACCURATE INFORMATION

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

DARRIN CRAWFORD, Defendant-Appellant

CA No. 31999B

**INSTRUCTIONS:** In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

**ISSUE V:**

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

SELF INCRIMINATION

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- 1. The issue raises a serious question about the legality of a law passed by the legislature.
- 2. The issue raises a legal principle which is very important to Michigan law.
- 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

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**FOR MORE ISSUES, ADD PAGES. GIVE THE SAME INFORMATION. NUMBER EACH ISSUE.**

RELIEF REQUESTED

9. For the above reasons I request that this Court GRANT leave to appeal, APPOINT a lawyer to represent me, and GRANT any other relief it decides I am entitled to receive.

11-30-15  
(Date)  
DARRIN F. CRAWFORD #193496  
(Print your name and number here.)

Darrin F. Crawford  
(Sign your name here.)  
CHIPPEWA CORR. FACILITY - 4269 WEST-M80  
(Print your address here.)  
KINCHLOE, MICHIGAN 49784

IN THE SUPREME COURT FOR THE STATE OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN

(Print the name of the opposing party, e.g., "People of the State of Michigan.")

Plaintiff-Appellee,

v DARRIN CRAWFORD

(Print the name you were convicted under on this line.)

Defendant-Appellant.

Supreme Court No. \_\_\_\_\_  
(Leave blank.)

Court of Appeals No. 319998  
(From Court of Appeals decision.)

Trial Court No. LC-NO 13-007629-FC  
(See Court of Appeals brief or Presentence Investigation Report.)

MOTION FOR WAIVER OF FEES AND COSTS

Appellant, pursuant to MCR 7.319(7)(h) and MCL 600.2963, for the reasons stated in the attached affidavit of indigency, requests that this Court: (Check the ones that apply to you.)

GRANT a waiver pursuant to MCR 7.319(7)(h) of all fees required for filing the attached pleadings because the provisions of MCL 600.2963, requiring prisoners to pay filing fees do not apply to appeals from a decision involving a criminal conviction or appeals from a decision of an administrative agency. The statute applies *exclusively* to prisoners filing civil cases and appeals in civil cases.

GRANT a waiver pursuant to MCR 7.319(7)(h) of all fees required for filing the attached pleadings because the provisions of MCL 600.2963, requiring only indigent prisoners to pay court filing fees violates the equal protection provision of the Michigan Constitution, Art I, Sec 2.

Temporarily waive the initial partial payment of filing fees for the attached pleadings and order the Michigan Department of Correction to collect and pay the money to this Court at a later date in accordance with MCL 600.2963, when the money becomes available in appellant's prison account. If the Court does not allow this, I will be prevented from filing the attached pleading in a timely manner.

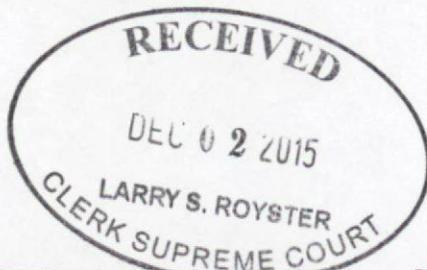
Allow an initial partial payment of \$ \_\_\_\_\_ of the fee for filing the attached pleadings and order the Michigan Department of Correction to collect the remaining money and pay it to this Court at a later date in accordance with MCL 600.2963, as additional money becomes available in my prison account. If the Court does not allow this, I will be prevented from filing the attached pleading in a timely manner.

11-30-15  
(Date)

Darrin Crawford  
(Sign your name here.)

DARRIN F. CRAWFORD #193496  
(Print your name and number here.)

CHIPPEWA CORR FAC - 4269 WEST - M80  
(Print your address here.)  
KINCHELOE, MICHIGAN 49784



IN THE SUPREME COURT FOR THE STATE OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN  
(Print the name of the opposing party, e.g. "People of the State of Michigan.")

Supreme Court No. \_\_\_\_\_  
(Leave blank.)

Plaintiff-Appellee,

Court of Appeals No. 319998  
(From Court of Appeals decision.)

v DARRIN CRAWFORD  
(Print the name you were convicted under on this line.)

Trial Court No. LC NO. 13-007629-FC  
(See Court of Appeals brief or Presentence Investigation Report.)

Defendant-Appellant.

AFFIDAVIT OF INDIGENCY

1. My name is DARRIN CRAWFORD I am in prison at CHIPPEWA CORP-FAC in KINCHELOE MI.  
(Type or print your name here.) (Name of prison) (city where prison is located)

My prison number is 193496. My income and assets are: (Check the ones that apply to you.)  
(Your prison number.)

- My only source of income is from my prison job and I make \$ \_\_\_\_\_ per day.
- I have no income.
- I have no assets that can be converted to cash.
- I can not pay the filing fees for the attached application.

I ask this Court to waive the filing fee in this matter.

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

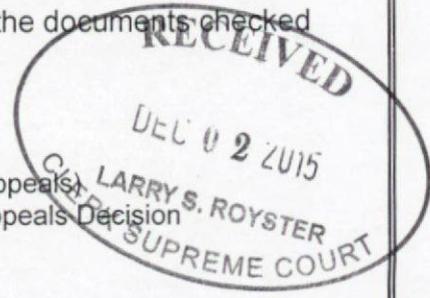
11-30-15  
(Date)

Darrin F. Crawford  
(Sign your name here.)  
DARRIN F. CRAWFORD  
(Print your name here.)

PROOF OF SERVICE

On 11-30, 200 15, I mailed by U.S. mail one copy of the documents checked below: (Put a check mark by the ones you mailed.)

- Affidavit of Indigency and Proof of Service
- Motion to Waive Fees and Costs
- Statement of Prisoner Account (this is not necessary in criminal appeals)
- Pro Per Application for Leave to Appeal with a copy of Court of Appeals Decision
- Court of Appeals Brief
- Supplemental Court of Appeals Brief



TO: WANYE County Prosecutor, 1441 ST. ANTOINE, at  
(Name of county where you were sentenced) (Address)  
DET, MI 48226  
(City) (Zip Code)

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

11-30-15  
(Date)

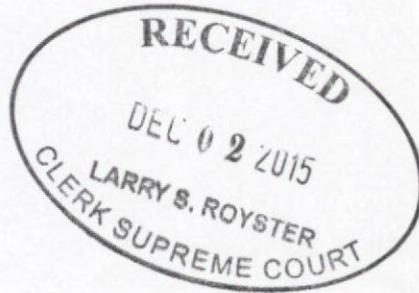
Darrin Crawford #193496  
(Sign your name here.)  
DARRIN CRAWFORD #193496  
(Print your name here.)

COVER LETTER

11-30-15

(Put Today's Date)

Clerk  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909



RE: PEOPLE OF THE STATE OF MICHIGAN v DARRIN CRAWFORD  
(Print the name of the opposing party, e.g., "People of the State of Michigan.") (Print the name you were convicted under here.)

Supreme Court No. \_\_\_\_\_ (Leave blank - the Clerk will assign a number for you.)  
Court of Appeals No. 319998 (Get this number from the Court of Appeals decision.)  
Trial Court No. LC. NO 13-007629-FC (Get this number from Court of Appeals brief or Presentence Investigation Report.)

Dear Clerk:

Enclosed please find the original of the pleadings checked below. (Put a check mark by the items you are sending.) I am indigent and can not provide seven copies. Please file them.

- Affidavit of Indigency/Proof of Service
- Motion to Waive Fees and Costs
- Statement of Prisoner Account (this is not necessary in criminal appeals)
- Pro Per Application for Leave to Appeal
- Court of Appeals Decision (You **must** enclose a copy of the Court of Appeals decision.)
- Court of Appeals Brief (This is not necessary, but it is a good idea.)
- Supplemental Court of Appeals Brief (This is not necessary, but it is a good idea.)
- Other MEDICAL REC., TRANSCRIPTS COPY OF PRE-EXAM 8-22-13 PG. 9, 10, 12  
STATEMENT FORM OF MR. LIGHT, B. JOHNSON, T. TURNER

Thank you.

INSTRUCTIONS

Sincerely,

DARRIN CRAWFORD  
(Sign your name here.)  
DARRIN CRAWFORD  
(Print or type your name here.)  
193496  
(Print or type your prisoner number here.)  
CHIAPPEWA CORP. FAC. 4269 WEST - M80  
(Print or type your address here.)  
KINCHELOE, MICH. 49784  
(Print or type your City, State, and Zip Code here.)

1. You will need 2 copies and the original of this letter and the pleadings listed above.
2. Mail the original of this letter and all the pleadings listed above to the Supreme Court Court Clerk.
3. Mail 1 copy of letter and pleadings to the prosecutor in the county where you were convicted.
4. Keep 1 copy of letter and pleadings for your file.

Copy sent to: WANYE County Prosecutor  
(Fill in the county where you were convicted.)