

STATE OF MICHIGAN
IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN
PLAINTIFF-APPELLANT,

Michigan Supreme
Court No: 153185

-vs-

Court of Appeals No:
315323

WILLIAM LYLES, JR.
DEFENDANT-APPELLEE.

_____/

WAYNE COUNTY CIRCUIT COURT NO: 12-08021

_____/

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WAYNE COUNTY PROSECUTING ATTORNEY
ATTORNEY FOR PLAINTIFF-APPELLANT

_____/

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_____/

**APPELLEE'S SECOND SUPPLEMENTAL
ANSWER TO APPELLANT'S APPLICATION**

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INDEX OF AUTHORITIES

	PAGE
Cases	
<i>People v. Osantowski</i> , 481 Mich 103 (2008), cert denied 555 US 1015; 129 S Ct 574; 172 L Ed 2d 435 (2008).	6
<i>People v Lukity</i> , 460 Mich 484 (1999).....	5
<i>People v Mills</i> , 450 Mich 61 (1995)	6
<i>People v Riddle</i> , 467 Mich 116 (2002).....	7
<i>People v Rodriguez</i> , 463 Mich 466 (2000)	6
<i>People v Schultz</i> , 316 Mich 106 (1946)	7
<i>People v Vaughn</i> , 447 Mich 217 (1994).....	7
 Statutes	
MCL 769.26.....	6
 Other Authorities	
<i>Black’s Law Dictionary</i> , 4th Ed. Rev, p 1601	7
<i>Webster’s New International Dictionary</i> , 1928, p 2075	7

STATEMENT OF JURISDICTION

AND RELIEF SOUGHT

This Court has jurisdiction pursuant to the Michigan Supreme Court Order in People v William Lyles, Jr., MSC #153185.

The Application should be denied and the Court of Appeals decision again affirmed.

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STATEMENT OF QUESTIONS PRESENTED

- I. WAS THE TRIAL COURT'S FAILURE TO CORRECTLY INSTRUCT THE JURY REGARDING DEFENDANT'S EVIDENCE OF GOOD CHARACTER SUFFICIENTLY PREJUDICIAL TO ENTITLE DEFENDANT A NEW TRIAL?**

Court of Appeals Answers: Yes

People Answer: No

Defendant Answers: Yes

STATEMENT OF FACTS

In the early morning hours of December 28, 1983, Andrew Weathers was stabbed to death in his bed. At the time of his death, Mr. Weathers had lived with his cousin, Louise Kountz, her two daughters, and a friend of the family.

Approximately thirty years later, defendant, Mr. William Lyles, Jr., was charged with the first degree murder, MCL 750.316, of Mr. Weathers.

At trial, testimony was taken which revealed during that night, while Mr. Weathers and the others were sleeping in the house, someone broke into the home through a basement window, turned off the electricity, placed the family dog in a freezer, proceeded upstairs and stabbed Mr. Weathers with a knife taken from the kitchen.

A noise woke the others, who found Mr. Weathers. The two daughters went next door to call the police. On the way out of the house, they saw what they described as a shadowy figure, whom they believed was Mr. Lyles based on the size of the shadow and the smell of stale cigarettes. (II, 102-114; III, 67-78; III, 156-192).

Mr. Lyles had been in a romantic relationship with Louise for several years and at one time had lived in the home, moving out that previous summer when the relationship ended. According to the prosecutor, the two had a violent and abusive relationship which continued after defendant had moved out and for an unknown reason defendant had blamed Mr. Weathers for the end of the relationship.

One of the daughters testified to a telephone conversation with defendant who indicated he was going to get Mr. Weathers. One of the daughters also testified to discovering a pair of

shoes in the home allegedly belonging to Mr. Lyles, with sponges taped to the soles. They were not produced at trial. (III, 162-177).

Although a warrant was issued for Mr. Lyles' arrest in 1984, he had moved out of Michigan and was not apprehended until approximately 30 years later, in July, 2012.

When questioned by the police, he denied the killing or breaking into the house. He explained the two had ended the relationship because of an age difference and he was unemployed. He also denied threatening Louise and informed the officers he had left town because he was afraid of her family. (V, 28-30).

During the jury trial, Mr. Lyles presented opinion reputation evidence regarding his peaceful character in support of his innocence and to rebut the alleged evidence of violence presented by the prosecution.

Ms. Johnson, defendant's sister, testified, as did Ms. Davenport, who had dated defendant and remained in contact with him, and Ms. Harden, who had known defendant all her life and in her opinion, defendant was a peaceful person. She never heard anything in the neighborhood about defendant being either physically or verbally abusive, knew Louise and never saw any abuse between the two. (V, 92-106).

Despite a request by the defense, the jury was not informed properly how it could use the good evidence defendant had presented in its decision-making process.

Consequently, Mr. Lyles was found guilty of first degree murder. MCL 759.316.

In a decision following his Appeal of Right, the Court of Appeals unanimously granted Mr. Lyles a new trial¹, finding the failure of the trial court to properly instruct the jury on the appropriately admitted character evidence presented by Mr. Lyles was error.

¹ COA #315323, unpubl, rel. 07/22/14.

On Application by the prosecution, this Court remanded the case to the Court of Appeals to reconsider whether the trial court's failure to give the defense requested jury instruction was error under the standard adopted in *People v Lukity*, 460 Mich 484 (1999)².

Applying this standard, the Court of Appeals again unanimously found the failure to give the defense requested instructions regarding character evidence was not harmless. COA # 315323, unpubl, rel 12/22/15.

The prosecution has again sought Application for Leave to this Court. This Court ordered the parties to file supplemental briefs addressing whether the trial court's failure to correctly instruct the jury regarding defendant's evidence of good character was 'sufficiently prejudicial' for a new trial.

Defendant submits it was.

² MSC #, 150040, Order, rel, 10/30/15.

ARGUMENT

I. THE TRIAL COURT'S FAILURE TO CORRECTLY INSTRUCT THE JURY REGARDING DEFENDANT'S EVIDENCE OF GOOD CHARACTER WAS SUFFICIENTLY PREJUDICIAL TO ENTITLE DEFENDANT A NEW TRIAL.

Standard of Review

As previously noted, the standard of review regarding improper jury instructions is de novo. *People v. Osantowski*, 481 Mich 103 (2008), cert denied 555 US 1015; 129 S Ct 574; 172 L Ed 2d 435 (2008).

Argument

As this Court has stated:

A criminal defendant is entitled to have a properly instructed jury consider the evidence against him. *People v Rodriguez*, 463 Mich 466, 472; 620 NW2d 13 (2000); *People v Mills*, 450 Mich 61, 80-81; 537 NW2d 909 (1995). When a defendant requests a jury instruction on a theory or defense that is supported by the evidence, the trial court must give the instruction. *Rodriguez, supra* at 472-473; *Mills, supra* at 81. However, if an applicable instruction was not given, the defendant bears the burden of establishing that the trial court's failure to give the requested instruction resulted in a miscarriage of justice. MCL 769.26; *Rodriguez, supra* at 473-474; *People v Lukity*, 460 Mich 484, 493-494; 596 NW2d 607 (1999). The defendant's conviction will not be reversed unless, after examining the nature of the error in light of the weight and strength of the untainted evidence, it affirmatively appears that it is more probable than not that the error was outcome determinative. MCL 769.26; *Rodriguez, supra* at 474; *Lukity, supra* at 495-496. *People v Riddle*, 467 Mich 116, 124-125 (2002).

In this case, the failure of the trial court to properly instruct the jury on defendant's character evidence, which was properly admitted, was sufficiently³ prejudicial, in that it prevented the jury from properly weighing the strength of the prosecution's case against him, vis-à-vis the evidence he had presented to them of his good character. Without proper direction by the court, the jury was left without guidance on how to evaluate this evidence in the context of the case, resulting in a miscarriage of justice. This failure was sufficient to prejudice the defendant and bring into question the validity of the verdict.

Defendant recognizes there are cases in which an improperly instructed jury did not prejudice the defendant.

In *People v Vaughn*, 447 Mich 217 (1994), a case where this Court was asked to determine whether, in a prosecution for kidnapping and first-degree criminal sexual conduct, the trial court erred in failing to adequately instruct the jury that asportation necessary for kidnapping must not be merely incidental to the commission of the underlying offense of first-degree criminal sexual conduct, this Court found while the jury was improperly instructed, there was no actual prejudice to defendant and the error harmless because there was overwhelming and unrefuted evidence on the record to support the jury's finding.

In another case where the jury was not properly instructed as to character evidence, this Court found the meagerness of the character testimony, which consisted of only one witness, as well as the improper instruction, which included references to the defendant's reputation as to honesty and integrity even though there was no testimony on these points, did not prejudice defendant. *People v Schultz*, 316 Mich 106 (1946).

In this case, the evidence of Mr. Lyle's guilt was neither overwhelming nor unrefuted.

³ Sufficient: adequate, enough, as much as may be necessary, that which is satisfactory for the purpose. *Black's Law Dictionary*, 4th Ed. Rev, p 1601; equal to the end proposed, *Webster's New International Dictionary*, 1928, p 2075:

There was a lack of physical evidence linking him to the charged offense: no crime scene photographs, no murder weapon, no witness statements, no DNA or fingerprints results were placed before the jury.

Crucial witnesses, including police officers, had died prior to trial. The jury was not given the benefit of their testimony.

The prosecutor's attempt to place Mr. Lyles at the scene also rested upon decades old memories. These memories were based on the possible viewing of a shadow, at night, in a house without electricity.

Allegations of domestic abuse by Mr. Lyles towards members of the household which the prosecutor used to establish a possible motive for the offense similarly were not supported by any physical evidence. No police nor hospital records were admitted to substantiate these claims. The person with whom Mr. Lyles had the alleged violent relationship had died prior to trial. Any allegations of domestic abuse were again based on decades old memories of witnesses who were teenagers at the time of the offense.

To rebut this alleged violent history, Mr. Lyles presented evidence through three witnesses as to his peaceful character and requested the proper jury instruction.

However, the instruction finally given did not assist the jury. Instead the instructions effectively ignored the evidence presented and failed to instruct them on how to consider the evidence in its proper context with the other evidence. The instructions as given further misdirected them by informing them the prosecutor had presented witnesses to rebut this evidence, when no witnesses had in fact been presented in rebuttal.

Despite the request, the jury was not correctly appraised on how to assess this evidence, either alone, or in the context of the other evidence.

As this Court stated in *Vaughn*,

While under the microscope of retrospective analysis it may accurately be said that the jury found facts sufficient for conviction, and that it properly applied these facts to reach a kidnapping conviction, it is certainly accurate that the deliberative process that resulted in both the facts and the verdict is one significantly directed by jury instructions. Facts are neither deduced nor applied in a vacuum. The deliberative process of a jury sails fundamentally with the winds of a trial judge's instructions. To say, therefore, that a jury's ultimate factual conclusions justify a prior instructional decision ignores the simple truth that the jury's findings may have been prejudicially affected *by that decision*. The end does not justify the means. Facts and verdicts procured under the spectre of prior instructional error cannot be, and should not be, later inverted to sanction that error. *Vaughn*, n 18.

As noted, the evidence presented by the prosecution was not overwhelming nor did the instruction inure to Mr. Lyles' benefit, nor were they of no benefit to the jury's deliberative process. On the contrary, the instructions served to deny Mr. Lyles his right to present a defense by stripping away any possible defense he presented to rebut the minimal evidence offered by the prosecution.

The jury was given evidence regarding the case, yet they were given the wrong instructions on how to evaluate that evidence.

Defendant Lyles presented several witnesses who testified as to his character and reputation. The prosecutor offered no rebuttal witnesses, yet the jury was informed otherwise. In hindsight, one cannot say how the jury interpreted this instruction, whether it was ignored or whether they considered the witnesses the prosecution presented as rebuttal witnesses.

Defendant Lyles submits the trial court's improper jury instructions were sufficiently prejudicial to deny him his constitutional right to have a properly instructed jury consider the evidence. The jury instructions did not inform them how to consider the evidence they had heard.

The errant winds blown by the trial court led the jury in the wrong direction and caused them to reach the wrong destination. No jury should enter its deliberations without proper

instruction on how to consider the evidence presented to them. It is their function to determine the facts of a case and with improper direction, will reach an incorrect conclusion.

An appellate court cannot and should not substitute its own judgment in hindsight on how much weight a jury would have given to properly admitted testimony without proper instruction.

In this case, on these facts, given the minimal evidence presented by the prosecution, Mr. Lyles was denied his right to have the facts determined by a properly instructed jury.

Twice the Court of Appeals recognized defendant met his burden, that the improper jury instructions were sufficiently prejudicial to improperly influence the verdict, resulting in a miscarriage of justice.

The Application should be denied.

SUMMARY AND RELIEF SOUGHT

For the foregoing reasons, Defendant-Appellant respectfully requests this Honorable Court deny the Application.

The decision of the Court of Appeals should again be affirmed.

Respectfully submitted,

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DATED: November 11, 2016