

V

IN THE SUPREME COURT FOR THE STATE OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN,

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

Plaintiff-Appellee,

Court of Appeals No. 318680  
(From Court of Appeals decision.)

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

Trial Court No. 13-005130-FC  
(See Court of Appeals brief or Presentence Investigation Report.)

Defendant-Appellant.

**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) September 6, 2013

2. I was convicted of (Name of offense) Home Invasion 1st degree, Robbery unarmmed, 3rd habitual (only after/upon sentencing)

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

4. I was sentenced by Judge Timothy Kenny on September 23, 2013  
(Print or type name of judge) (Print or type date you were sentenced) /  
in the Wayne County Circuit Court to 12 years 0 months  
(Name of county where you were sentenced) (Put minimum sentence here)

to 40 years 0 months, and to 12 years 0 months to 30 years 0 months.  
(Print or type maximum sentence) (Minimum sentence) (Maximum sentence)

I am in prison at the St. Louis Correctional Facility in St. Louis, Michigan.  
(Print or type name of prison) (Print or type city where prison is located.)

5. The Court of Appeals affirmed my conviction on February 19, 2015  
(Print or type date stamped on Court of Appeals decision)  
in case number 318680. 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.

Phillip Swift, Defendant-Appellant

CA No. 318680

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.)

Mr. Swift is entitled to a re-sentencing where the prosecution failed to comply with the statute regarding their notice to seek an enhanced sentence as a third habitual offender, and the trial court abused its discretion in denying Mr. Swift timely motion for re-sentencing.

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.)

Prosecutors are required by statute to give timely notice to the defendant that they will seek an enhanced sentence by adding the habitual offenses to the charge or charges in the complaint. The prosecutor must provide written notice of the intent to add habitual offense notices to the complaint within 21 days of the defendant being arraigned on the information or complaint. If the arraignment is waived, it MUST be filed within 21 days of the filing of the underlying offense. In my case here, I was never notified in writing or any other way that I was being charged with a 3rd habitual offense. Upon a guilty outcome, after my sentencing I was sent a notice of this dated after my arrival to Jackson prison quarantine. I have enclosed the copy of such notice.

PRO PER APPLICATION FOR LEAVE TO APPEAL (cont.)

Phillip Swift, Defendant-Appellant

CA No. 318680

**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.)

Mr. Swift was denied his right to present a defense where the trial court abused its discretion in ruling that defense counsel could not examine Ms. Samantha Hong regarding other officials within Detroit Police Department with which she had contact regarding her report of the complaining witness unlawfully removed items from Mr. Swift and Ms. Hong's home.

**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.)

Ms. Hong reported the break in of our home on November 6<sup>th</sup> 2012, by phone when she entered the home that day two things took place, one is she was accompanied by a Detroit Police officer off-duty. His name is officer James, they both witnessed three suspects in the home. As well as in the process of scraping items from the residence that myself and Ms. Hong occupied. One of the suspects caught in the home was/is Kenneth Smith. He is one of the victims in this present case. Ms. Hong during the phone call in making the report on the break in, Ms. Hong stated that the residence was occupied and lived in by both of us. She wasn't present at first, But had walked in during the crime. The person taking the

Cont on paper

## Continue Issue II

information from Mrs. Hong did not report the correct information as Mrs. Hong stated it. After I was arrested, Mrs. Hong did a few things. First she tried calling the head detective in this case so that she could explain the situation. Meaning I had a solid alibi, five people could place me at home all night. I'm bringing this point up, because the prosecutor in my case while questioning Mrs. Hong stated that Mrs. Hong never told anyone from the get go that I was innocent, as well as I had five witnesses providing me with a solid alibi that night. I'd need to do believe phone records could be pulled to verify this information. Officer Scarafinski amended the initial report for Mrs. Hong that day. One, to include the thief of cable boxes in my name that I was being held responsible for. And two, Mrs. Hong stated in the initial call reporting the break-in that she knew the three suspects personally and that the home was still occupied. As well as an off-duty police officer had witnessed

## Continue Issue II

(2)

the break in as well. The prosecutor in the case while questioning Ms. Hong stated that she had never told anyone about my alibi, and that there were four others not including herself that could verify I had been home for the night. As well as he was stating Ms. Hong had never made police reports concerning the break in, until I was locked back up. There is proof from Nov 2013, because Ms. Hong had called on November 7<sup>th</sup> 2013 to the crime line. This is when/where is reported the first break in, she stated the home was indeed occupied by herself and I. As well as she stated she caught and knew who the suspects were in our home. Ms. Hong on the next day caught the victim Kenneth Smith, his brother Tim, and Tim's girlfriend Angela once again breaking into our home. Just this day, Ms. Hong had an off-duty police officer with her. He obviously caught the three suspects in our home as well. Two reports were made at that time, when Ms. Hong went to Officer Scarafinski she did pull up, print out the one report. But the second one that named Officer Davies, officer Scarafinski stated because Ms. Hong was working

(3)

## Continue Issue II

with Internal Affairs building a case against the officer, that report wasn't able to be found. With the first report the officer did amend it so that it stated the correct information, as well as included the stolen cable boxes and the other stolen items. The prosecutor in this case when questioning Ms. Hong stated she never informed anyone that I had an alibi, and ~~in fact~~ there were 5 witnesses, one thing Ms. Hong did the day of my arrest and days following up to my arraignment on the case, is call the head detective hearing him multiple voicemail for him to call her, as well as I did indeed have witnesses and an alibi for this case. If possible phone records outgoing could get pulled for Ms. Hong's phone activity for the week of May 21<sup>st</sup> 2013. As well as maybe phone activity for the head detective's phone calls incoming could be pulled. Proving indeed Ms. Hong did tell the police of my witnesses/alibi information before trial. Officer Amy Scarafinski hasn't yet, but has stated she would write out a

# Continue Issue II

personal statement providing yet more proof to back up Mrs. Hong's information while trying to testify on the stand. I'm bringing these few key points of information to light now, because the prosecutor while questioning Mrs. Hong while on the stand was trying to point out and get the jury to believe Mrs. Hong wasn't being honest about these few things. There was and still is concrete proof to back up this information. My trial attorney was in fact given copies of the original police report, as well as he was given the amended report and he was also told about the officer Scarafunski and her willingness to write a statement. He stated the items were useless and we couldn't use them.

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

Phillip Swift, Defendant-Appellant

CA No. 318680

**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.)

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**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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PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

Phillip Swift, Defendant-Appellant

CA No. 318680

**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.)

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**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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PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

Phillip Swift, Defendant-Appellant

CA No. 318680

**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.)

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**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 4any 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.**

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

Phillip Swift, Defendant-Appellant

CA No. 318680

**NEW ISSUES - INSTRUCTIONS:** If you want the Supreme Court to look at errors which were not raised in the Court of Appeals by your attorney or you, check YES in "8." Answer parts A, B, and C for each new issue you raise. There is space provided for 2 new issues. You can add more pages. If you do not have new issues, go to question 9 on page 8.

**GROUND S - NEW ISSUES**

8.  YES, I want the Court to consider the additional grounds for relief contained in the following issues.

The issues were not raised in my Court of Appeals brief. MCR 7.302(F)(4).

**NEW ISSUE I:**

A. (State the new issue you want the Court to consider.)

Defendant's rights to counsel were violated by ineffective assistance of counsel. The right to due process, a right guaranteed by the Fifth Amendment to the U.S. Constitution, reaffirmed by the 14th amendment.

B. The Court should review this issue because: (Check all the ones you think apply to your case, 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.

C. (Explain why you think that your choices in B above apply to this issue in your case. List any cases and citations, laws, or court rules, etc. which support your argument. Explain how they apply to this issue. State the facts which support and explain this issue. If these facts were not presented in court, explain why. You can add more pages.)

Here's five key factors I'm going to explain more in depth here: The police arrived on the scene that night but the victims wouldn't let him into the residence so he could gather evidence. Five witnesses could've testified but only 3 were allowed, 1 was subpoenaed. Phillip wasn't allowed to testify on his behalf. Ms. Poel was questioned on how long she'd known Mr. Swift / Ms. Lang, no one brought to light she'd known Colleen and her family for 50 yrs. Ms. Lang wasn't cross examined properly so that both sides could equally be heard in this case.

**PRO PER APPLICATION FOR LEAVE TO APPEAL (cont.)**

See other sheet →

## Grounds - New issues.

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In *Strickland v. Washington*, 466 U.S. 668 (1984), the United States Supreme Court held that for a defendant to make out a claim of ineffective assistance of counsel, the defendant must show that 1) counsel's performance was deficient in that it fell below an objective standard of reasonableness and 2) that counsel's deficiencies so prejudiced his case so as to render the outcome of his trial unreliable and therefore unfair.

Generally proof of ineffective assistance of counsel will require the defense attorney to provide additional material to the court that is outside the appeal record.<sup>2</sup> A criminal defense attorney may introduce this additional evidence by either 1) filing a motion for a new trial, 2) a collateral action challenging a conviction, or 3) a remand to the original court in order to reopen case. However, in some instances ineffective assistance of counsel may so patently obviates from the record, that it can be raised on direct appeal without any additional evidence.

On the night of Thursday May 16<sup>th</sup> 2013, the Detroit police were called to Kenneth Smith's residence around 10:30 or 11 pm. When the officers arrived, the victim refused to let him up into the apartment

to check the crime scene. No evidence or even fingerprints were pulled from the apartment to prove I or my brother had been there. Also Kenneth refused to go to the hospital on that night, so how is it to be believed I caused his injuries? Kenneth testified on the stand under oath, that there in fact had been a fight between the two of us on May 14<sup>th</sup> 2013 around 6pm in front of Burger King on Vernon. But my defense attorney never questioned him further on this subject. Ms. Long testified to it under oath, but again my defense attorney never cross examined her further or at all on this matter. I would like to also point out the question asked to Ms. Dancy Roell, and that was how long had she known Ms. Long and I. She answered the question, and I believe at that time it had been over a year. The defense nor the prosecutor asked her how long she'd known Ron, Colleen, Paul Smith... that length of time is 50 years. Another fact I would like to point out is, Kenneth Smith and I have known each other my whole life. We have a family tie to each other, Kenneth is my cousin

Christopher's father. I looked up to him, I always looked out for him. So for him to do this to me was very upsetting. His family and I felt very betrayed when I found out about the break in to our home.

I would also like to bring up the fact that I had five witnesses to testify on my behalf for the night in question: May 16 2013. Only one witnessed was subpoenaed, and out of the five my defense attorney only allowed three up on the stand. He said there was no need for the five, that this whole thing wasn't about numbers.

But it was about my innocence for that night, and my five witnesses could prove where I was. I would also like to point out that my defense attorney refused to allow me to testify on my behalf. At one point he asked me what happened, I explained to him all the details of the incident on May 16, 2013. After hearing everything I had to say, he agreed it would be best for me to testify on my own behalf, but when it came down to it he refused to let me testify. The last thing I would like to bring up is this, Ms Hong was not cross-examined by my attorney.

④

after the prosecutor questioned her. If my attorney would have re-questioned her then a lot of things left untied up would have clearly been tied up with his re-questioning. The jury didn't get to hear all the evidence from all of my witnesses or even get the full truth of the incident out of the witnesses that did testify.

NEW ISSUE II:

A. (State the new issue you want the Court to consider.) The victim Kenneth Smith has his wallet. He never replaced the important items he stated were in the wallet, his bridge card, social security card, his id, and wallet sized birth certificate.

B. The Court should review this issue because: (Check all the ones you think apply to your case, 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.

C. (Explain why you think that your choices in B above apply to this issue in your case. List any cases and citations, laws, or court rules, etc. which support your argument. Explain how they apply to this issue. State the facts which support and explain this issue. If these facts were not presented in court, explain why. You can add more pages.)

Kenneth Smith testified under oath that his wallet was stolen. On three separate times he made a few different statements about his wallet. The first one was, he (Kenneth Smith) wasn't sure who took it, if anyone. The second one was my brother Jason Swift took it. Then the last one was I took it from him. Now attempting to point out, there was three different money amounts that he states were also in the wallet. If his wallet was in fact stolen on May 16th 2013, there would be record of him calling/reapplying for replacements in or even a few weeks after that time. This is something still to this day Kenneth hasn't done. Ms. Colleen Smith

RELIEF REQUESTED See other sheet ->

## New issue II continued

(1)

and Kenneth Smith have reached out to my aunt Sarah hitewalk and my wife Mrs. hong, they have stated Kenneth would like to come forth with the information and evidence to prove he in fact has his wallet. Mrs hong spoke to my appeal's attorney around Christmas time, he informed Mrs hong the new information was too late and there was nothing he could do as of now. He informed Mrs hong it would have to be brought up in the next appeal paperwork. I am and have always admitted I am guilty of fighting with Kenneth Smith, on the street on May 14, 2013. I never broke into his house, causing a 1<sup>st</sup> degree home invasion. Nor have I ever stolen his wallet that night or any night. I was taken from Southwest Solutions were I was going to start speaking to a therapist, as well as begin taking my medicine that was to be prescribed to me. This was Tuesday 21<sup>st</sup> 2013 at 1pm. I never returned home. Mrs hong tried contacting the head detective those

(2)

first few days. He never answered the phone, nor did he ever call her back after she left him. Numerous voicemails. The prosecutor questioned Mrs. Hong about telling any police officials other than the ones she spoke to right before my trial. She tried explaining to him, but it was the prosecutor coming hard at her and she was nervous, not trying to hide anything but the prosecutor was hard on her. The defense in no way at all come back to Mrs. Hong to re-direct. He could have on many different levels for the questioning of Mrs. Hong, but my defense attorney never did. At one point Mrs. Hong ran into Mr. Smith (Kenneth) a few days after I was arrested. There were two other witnesses with Mrs. Hong that day. She had a conversation with him where he stated he wasn't doing anything in the case. He claimed it was Ron and Colleen Smith. Mrs. Hong gave Mr. Smith (Kenneth) a hug and they parted ways. In March of 2013, Mrs. Hong stayed in a rental home of Colleen Smith. I was locked up in Dickerson and due home May 7, 2013. Two days before I was due home Mrs. Hong and Mrs. Smith met at

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the home that Mrs. Hong was renting for \$400<sup>00</sup> a month. Mrs. Hong had given Colleen \$500<sup>00</sup>, but still owed her \$300<sup>00</sup>. Everything was good between the two on the afternoon of Sunday May 5<sup>th</sup> 2013. The next morning of May 6<sup>th</sup> 2013, Mr. Ron Smith, with Colleen Smith came to the home where Mrs. Hong was. The day before Colleen Smith had made comments about her son Paul Smith moving into the home Mrs. Hong was now renting. Colleen spoke of Mrs. Hong and my plans when I came home. Mrs. Hong said she wasn't sure because she needed to wait for my return home, and then speak with me on where we were going to go when I came home. That morning when the Smiths came to Mrs. Hong's place of residence that morning, they told her she needed to leave. Mrs. Hong said no that she wasn't leaving they needed to evict her. Mr. Ron Smith stayed there while Mrs. Colleen Smith left, but returned shortly with 4 other males. They told Mrs. Hong she was going to leave because if I was coming home tomorrow May 7<sup>th</sup> 2013, they couldn't have me and

(4)

Paul Smith, their son in the same home. Ms. Long grabbed a few of our things and left. She went to Damey Rolles home, and thats where she was when I called to be picked up a day early from Dickerson. Our home, my families home 4155 Bivouac had been bought AFTER Kenneth Smith scraped it out and made it unutilable for us or anyone to live in. Family members of mine, and mutiple different people in the neighborhood have said Mr. Ron Smith and Colleen Smith now own my families home. I don't have concrete proof of this information, but I did as well as Ms. Long told him to check into this so we could have proof. But he never did. I have given you all this information, because I've always admitted I and Kenneth Smith had a fight, but never did I break into anyones home, nor did I steal his wallet. Kenneth, Ron, and Colleen Smith have a reason for me to not be around, or so they think they do. I have been locked up for this fight since May 21<sup>st</sup> 2013. Can you please look into my case and find it in your hearts to

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to grant me an appeal, or maybe grant me time served. I'm not an angel, I am human. I made a mistake, I fought with Kenneth Smith because I let my emotions get the best of me. I've obviously had time to think about all of this and I realize now placing my hands on anyone is not the right adult thing to do. I'm twenty-seven years old, I have a son, a family that loves me and that are waiting for me to get home.

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

(Date)

Phillip J. Swittic 6/5/54  
(Print your name and number here.)

Phillip J. Swittic  
(Sign your name here.)

ST. LOUIS CORRECTIONAL FACILITY  
(Print your address here.)

8585 N. CRASWELL RD  
(Print your address here.)

ST LOUIS, MICHIGAN 48880

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. 3181080  
(From Court of Appeals decision.)

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

Trial Court No. 13-005130-FC  
(See Court of Appeals brief or Presentence Investigation Report.)

Defendant-Appellant.

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.)

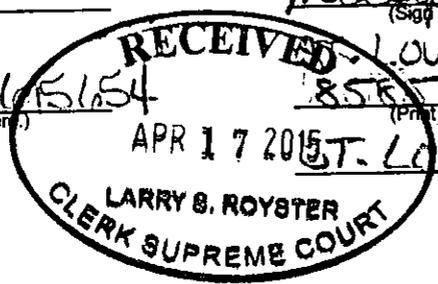
- GRANT a waiver pursuant to MCR 7.319(7)(h) of all fees required for filing the attached pleadings because the provisions of MCL 600.2963, requiring prisoners to pay filing fees do not apply to appeals from a decision involving a criminal conviction or appeals from a decision of an administrative agency. 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, when the 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.

(Date)

Phillip Swift  
(Sign your name here.)

Phillip Swift 615154  
(Print your name and number here.)

St. Louis Correctional Facility  
856 N. Crosswell Rd  
(Print your address here.)



St. Louis michigan 48880

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. 318680  
(From Court of Appeals decision.)

Phillip J. Swift Jr  
(Print the name you were convicted under on this line.)

Trial Court No. 13-005130-FC  
(See Court of Appeals brief or Presentence Investigation Report.)

Defendant-Appellant.

AFFIDAVIT OF INDIGENCY

1. My name is Phillip Swift Jr. I am in prison at St. Louis Correctional St. Louis MI.  
(Type or print your name here.) (Name of prison) (city where prison is located)

My prison number is 615654. 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.

3/23/2015  
(Date)

Phillip J. Swift Jr  
(Sign your name here.)  
Phillip J. Swift Jr  
(Print your name here.)

PROOF OF SERVICE

On \_\_\_\_\_, 2015, I mailed by U.S. mail one copy of the documents checked below. (Put a check mark by the ones you mailed.)

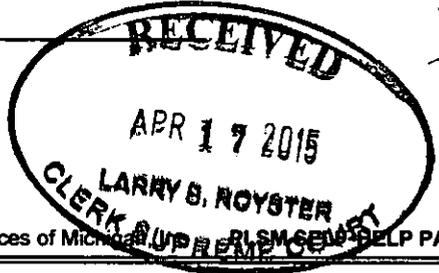
- Affidavit of Indigency and Proof of Service
- Motion to Waive Fees and Costs
- Statement of Prisoner Account (this is not necessary in criminal appeals)
- Pro Per Application for Leave to Appeal with a copy of Court of Appeals Decision
- Court of Appeals Brief
- Supplemental Court of Appeals Brief

Frank Murphy Hall of Justice

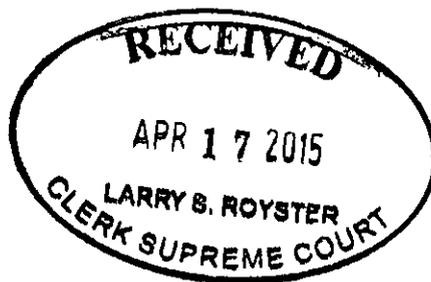
TO: Wayne County Prosecutor, 1441 St Antoine, at  
(Name of court where you were sentenced) (Address)  
Detroit, MI 48226  
(City) (Zip Code)

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

\_\_\_\_\_  
(Date) Phillip J. Swift Jr  
(Sign your name here.)  
Phillip J. Swift Jr  
(Print your name here.)



COVER LETTER



(Put Today's Date)

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

RE: People of the State of Michigan v Phillip Swift
(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. 3181050 (Get this number from the Court of Appeals decision.)
Trial Court No. 13-00513-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.

- Checked: Affidavit of Indigency/Proof of Service
Checked: Motion to Waive Fees and Costs
Statement of Prisoner Account (this is not necessary in criminal appeals)
Checked: Pro Per Application for Leave to Appeal
Checked: Court of Appeals Decision (You must enclose a copy of the Court of Appeals decision.)
Checked: Court of Appeals Brief (This is not necessary, but it is a good idea.)
Checked: Supplemental Court of Appeals Brief (This is not necessary, but it is a good idea.)
Other

Thank you.

INSTRUCTIONS

Sincerely,

Phillip J. Swift Jr
Phillip J. Swift Jr
10151054
8585 N. Crowell Rd
St. Louis, MI 48880

- 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:
Wayne County Prosecutor
(Fill in the county where you were convicted.)