

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. 286373  
(From Court of Appeals decision.)

v  
JAMIE LYNN LOWE  
(Print the name you were convicted under on this line.)

Trial Court No. 08-321632  
(See Court of Appeals brief or Presentence Investigation Report.)

Defendant-Appellant.

Hillsdale M. Smith

**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.

137284

PRO PER APPLICATION FOR LEAVE TO APPEAL

PR  
14  
EP

1. I was found guilty on (Date of Plea or Verdict) May 5, 2008

2. I was convicted of (Name of offense) Possession of methamphetamine (and having at least one prior conviction of a controlled substance).

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

4. I was sentenced by Judge Michael R. Smith on June 9, 2008  
(Print or type name of judge) (Print or type date you were sentenced)

in the Hillsdale County Circuit Court to 3 years 10 months  
(Name of county where you were sentenced) (Put minimum sentence here)

to 20 years 0 months, and to \_\_\_\_\_ years \_\_\_\_\_ months to \_\_\_\_\_ years \_\_\_\_\_ months.  
(Print or type maximum sentence) (Minimum sentence) (Maximum sentence)

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

5. The Court of Appeals affirmed my conviction on August 15, 2008  
(Print or type date stamped on Court of Appeals decision)

in case number 286373. 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.)

**FILED**

SEP 11 2008

CORBIN R. DAVIS  
CLERK  
MICHIGAN SUPREME COURT

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PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

JAMIE LYNN LOWE, Defendant-Appellant

CA No. 286373

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ISSUE I, PART C (from preceding page)

THE SENTENCING COURT ERRED BY SENTENCING DEFENDANT PURSUANT TO **PEOPLE V. WILLIAMS, 268 Mich App 416 (2005)**, RAISING QUESTIONS AS TO THE LEGISLATIVE INTENT IN REGARDS TO SENTENCE ENHANCEMENT PURSUANT TO THE PUBLIC HEALTH CODE [MCL 333.7403(2)(b)(i); 333.7413(2)], WHEREAS TRIAL COURT AND COURT OF APPEALS AGREE THAT THE ENHANCEMENT IS TO BE APPLIED TO BOTH DEFENDANT'S MINIMUM **AND** MAXIMUM SENTENCE [UNDER THEORY THAT BOTH ARE ONE SENTENCE FOR THE PURPOSES OF ENHANCEMENT UNDER THIS SECTION], AND THAT SAID DEPARTURE DOES REQUIRE A SUBSTANTIAL AND COMPELLING REASON, WHICH DIRECTLY CONFLICTS WITH LONG STANDING APPLICATION OF SENTENCE ENHANCEMENT PROVISIONS IN MICHIGAN, AND AS FURTHER DESCRIBED BY **THIS** COURT IN **MICH EX RIEL, THE MUSKEGON CNTY. PROS. VS. M.D.O.C. AND WAYNE LEE STEVENS**, Docket No. 135366, Feb. 8, 2008, and **PEOPLE V. SMITH**, Mich S.Ct. No. 134682. THE TRIAL COURT'S ERROR AND THE APPELLATE COURT'S DECISION CLEARLY CONFLICT WITH **THIS** COURT'S INTERPRETATION OF ESTABLISHED LAW IN THIS STATE, DEFENDANT WAS DEPRIVED OF HIS RIGHT TO DUE PROCESS OF LAW, AND IS ENTITLED TO RESENTENCING AND/OR RELIEF AS THIS COURT DEEMS APPROPRIATE UNDER THE CIRCUMSTANCES.



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.

9-9-08

(Date)

Jamie Lynn Lowe

(Sign your name here.)

JAMIE LYNN LOWE 689234

(Print your name and number here.)

3500 N. ELM ROAD (JCF)

(Print your address here.)

JACKSON, MI 49201

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Jamie Lynn Lowe

Docket No. 286373

LC No. 08-321632

Kathleen Jansen  
Presiding Judge

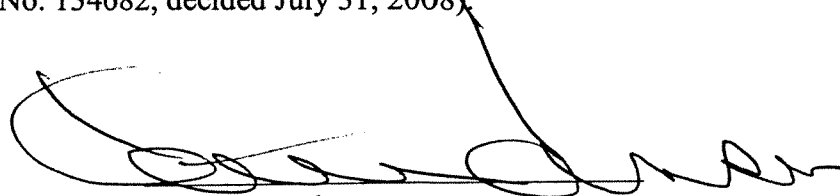
Mark J. Cavanagh

Elizabeth L. Gleicher  
Judges

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The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

Gleicher, J. would GRANT defendant's delayed application for leave to appeal in light of *People v Smith*, \_\_\_ Mich \_\_\_; \_\_\_ NW2d \_\_\_; (Docket No. 134682, decided July 31, 2008).



Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

**AUG 15 2008**

\_\_\_\_\_  
Date



\_\_\_\_\_  
Chief Clerk

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

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

Defendant-Appellant.

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

Court of Appeals No. 286373  
(From Court of Appeals decision.)

Trial Court No. 08-321632  
(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.

9-9-08  
(Date)

Jamie Lynn Lowe  
(Sign your name here.)

JAMIE LYNN LOWE 689234  
(Print your name and number here.)

3500 N. ELM ROAD  
(Print your address here.)

JACKSON, MI 49201

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. 286373  
(From Court of Appeals decision.)

v

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

Trial Court No. 08-321632  
(See Court of Appeals brief or Presentence Investigation Report.)

Defendant-Appellant.

AFFIDAVIT OF INDIGENCY

1. My name is Jamie Lynn Lowe. I am in prison at JCF in Jackson MI.  
(Type or print your name here.) (Name of prison) (city where prison is located)

My prison number is 689234. 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 \$.05 (avg.) 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.

9-9-08  
(Date)

Jamie Lynn Lowe  
(Sign your name here.)

JAMIE LYNN LOWE  
(Print your name here.)

PROOF OF SERVICE

On 9-9-08, 2008, 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 (NONE)
- Supplemental Court of Appeals Brief (NONE)

TO: Hillsdale County Prosecutor, 61 McCollum Street, at  
(Name of county where you were sentenced) (Address)  
Hillsdale, MI 49242.  
(City) (Zip Code)

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

9-9-08  
(Date)

Jamie Lynn Lowe  
(Sign your name here.)

JAMIE LYNN LOWE  
(Print your name here.)

COVER LETTER

9-9-08

(Put Today's Date)

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

RE: People of the State of Michigan v Jamie Lynn Lowe  
(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. 286373 (Get this number from the Court of Appeals decision.)  
Trial Court No. 08-321632 (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 PSI; People v. Smith S.Ct. No 134682; People v. Williams 286 MA 416  
Sentencing Transcripts

Thank you.

Sincerely,

Jamie Lowe

(Sign your name here.)

JAMIE LOWE

(Print or type your name here.)

689234

(Print or type your prisoner number here.)

(JCF) 3500 N. ELM RD.

(Print or type your address here.)

JACKSON MI 49201

(Print or type your City, State, and Zip Code here.)

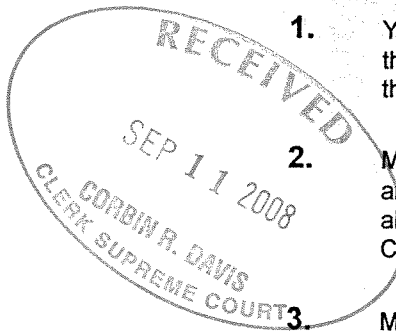
Copy sent to:

HILLSDALE

(Fill in the county where you were convicted.)

County Prosecutor

INSTRUCTIONS



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.