

# MICHIGAN SUPREME COURT

## People of the State of Michigan v. Aaron Xavier Johnson

No. 159924, Michigan Supreme Court (December 4, 2020)

### SUMMARY

**\*\*Key Legal Topics:\*\*** Suggestive identification procedures; showups; three-part test for admissibility (suggestive, unnecessary, unreliable); reliability factors under *Neil v Biggers*; police deterrence.

**\*\*Holding:\*\*** The Michigan Supreme Court denied leave to appeal, concluding the identification was reliable under the *Sammons* test despite an unnecessarily suggestive showup (defendant in police car). The concurrence criticized the police for routinely using unnecessary showups and the Court of Appeals for appearing to sanction the practice, but agreed the identification was reliable under existing law.

### CASE DETAILS

|                       |                                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Michigan Supreme Court                                                                                                                    |
| WRITING FOR THE COURT | Bridget M. McCormack; David F. Viviano; Stephen J. Markman; Brian K. Zahra; Richard H. Bernstein; Elizabeth T. Clement; Megan K. Cavanagh |
| JURISDICTION          | Michigan                                                                                                                                  |
| DECIDED               | December 4, 2020                                                                                                                          |
| DOCKET                | 159924                                                                                                                                    |
| DISPOSITION           | writ_denied                                                                                                                               |
| PROCEDURAL POSTURE    | Application for leave to appeal denied after being held in abeyance pending <i>People v. Sammons</i> .                                    |
| PRECEDENTIAL VALUE    | Published                                                                                                                                 |
| PARTIES               | Aaron Xavier Johnson v. People of the State of Michigan                                                                                   |

### TOPICS

- criminal procedure
- evidence
- due process

### PRACTICE AREAS

- Criminal Law

## QUESTIONS PRESENTED

1. Whether the identifications were the product of an unnecessarily suggestive showup

## KEY QUOTATIONS

*“Prompt on-the-scene confrontations are reasonable, indeed indispensable, police practices because they permit the police to immediately decide whether there is a reasonable likelihood that the suspect is connected with the crime and subject to arrest, or merely an unfortunate victim of circumstance.”* (p 2 (quoting Court of Appeals))

*“A primary aim of excluding identification evidence that fails this test is to deter law enforcement use of improper lineups, showups, and photo arrays in the first place.”* (p 2 (citing Perry))

## FACTUAL BACKGROUND

Defendant robbed a pizza delivery driver at gunpoint in an apartment complex parking lot. The driver returned to the restaurant and called police. Police informed the driver they thought they had the robber and asked the driver to come identify him. When the driver arrived, defendant was in the backseat of a police car, and the driver identified defendant as the robber.

## PROCEDURAL HISTORY

Defendant was convicted of armed robbery, assault with a dangerous weapon, and carrying a firearm during the commission of a felony. The Court of Appeals affirmed in an unpublished per curiam opinion. Defendant sought leave to appeal to the Michigan Supreme Court, which held the application in abeyance pending *People v. Sammons*, 505 Mich. 31 (2020). After *Sammons*, the court denied leave.

## DISPOSITION

writ\_denied

## CASES CITED

- *People v. Sammons*, 505 Mich. 31 (2020)
- *Perry v. New Hampshire*, 565 U.S. 228 (2012)
- *Stovall v. Denno*, 388 U.S. 293 (1976)
- *Manson v. Brathwaite*, 432 U.S. 98 (1977)
- *Ex parte Frazier*, 729 So. 2d 253 (Ala. 1998)
- *Neil v. Biggers*, 409 U.S. 188 (1972)