

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROGER CARLOS RAY,

Defendant-Appellant.

UNPUBLISHED

October 03, 2024

10:35 AM

No. 365913

Wayne Circuit Court

LC No. 93-004008-01-FC

Before: MURRAY, P.J., and BORRELLO and MARIANI, JJ.

PER CURIAM.

Defendant appeals by delayed leave granted¹ the trial court’s order denying his third successive motion for relief from judgment. On appeal, defendant argues the trial court abused its discretion when it denied his third successive motion under MCR 6.502(G)(2), which was predicated on: (1) newly discovered evidence; (2) a *Brady*² violation; (3) his actual innocence; and (4) ineffective assistance of counsel. We agree in part, vacate the order denying defendant’s motion, and remand to the trial court for an evidentiary hearing on whether the newly discovered evidence satisfies the fourth prong under *People v Cress*, 468 Mich 678, 692; 664 NW2d 174 (2003), and/or constitutes material evidence under *Brady v Maryland*, 373 US 83; 83 S Ct 1194; 10 L Ed 2d 215 (1963). We retain jurisdiction.

I. BACKGROUND FACTS AND PROCEDURAL HISTORY

This case arose from the murder of John Holmes in 1987. Although the murder occurred in 1987, trial did not take place until 1993. At trial the main witness against defendant was Edmond Wright. Also testifying for the prosecution were Detroit Police Officers Bobby Gary and William Simmons, Wright’s girlfriend Lisa Shepard, Denise Barnett, Clarence Bell, evidence technician

¹ *People v Ray*, unpublished order of the Court of Appeals, entered August 21, 2023 (Docket No. 365913).

² *Brady v Maryland*, 373 US 83; 83 S Ct 1194; 10 L Ed 2d 215 (1963).