Order

Michigan Supreme Court
Lansing, Michigan

March 6, 2026

168645

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 168645
COA: 363913
Genesee CC: 21-047785-FC

QUINTON JABIRI-DAKARAI LARRY,
Defendant-Appellant.

_____/

On order of the Court, the application for leave to appeal the April 18, 2025 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

THOMAS, J. (*concurring*).

I concur in the Court's denial of leave to appeal because defendant failed to show prejudice as required under *Strickland v Washington*, 466 US 668 (1984). I write separately because the Court of Appeals decision could be read to incorrectly suggest that any *Daubert*[1] challenge to proposed firearm identification is "meritless" because such evidence "has been widely used and accepted for decades." *People v Larry*, unpublished per curiam opinion of the Court of Appeals, issued April 18, 2025 (Docket No. 363913), p 4. This broad generalization is false for two reasons.

First, *Daubert* deals not only with the type of evidence being offered, but also with the application to the case at hand. See *Gilbert v DaimlerChrysler Corp*, 470 Mich 749, 782 (2004) (the "gatekeeper role" in a *Daubert* hearing "mandates a searching inquiry, not just of the data underlying expert testimony, but also of the manner in which the expert interprets and extrapolates from those data"). *Daubert* and MRE 702 require a witness who is "qualified as an expert," whose "testimony is the product of reliable principles and methods," and whose "opinion reflects a reliable application of the principles and methods to the facts of the case." MRE 702. Accordingly, even when the science underlying an expert's opinion is sound, the proponent of the testimony must also show that the expert's

[1] *Daubert v Merrell Dow Pharm, Inc*, 509 US 579 (1993).

opinion was "reached through reliable principles and methodology." *Gilbert*, 470 Mich at 782. If, for example, a party were to proffer expert testimony on a patently reliable form of science, such as DNA analysis of single-source samples—a "gold standard" of forensic evidence[2]—surely an opponent could challenge the testimony if the proponent's "expert" had no training or experience in DNA testing.

Second, contrary to what the Court of Appeals' broad statement about firearm identification would suggest, the reliability of this forensic evidence *has* been called into question. By way of background, firearm identification is a "feature-comparison" method in which "examiners attempt to determine whether ammunition is or is not associated with a *specific* firearm based on 'toolmarks' produced by guns on the ammunition."[3] These "toolmarks" refer to the markings left on bullets or casings as they exit a firearm from the spiral grooves cut into gun barrels.[4] In theory, these markings vary enough between firearms—as a result of the "[r]andom individual imperfections produced during the tool-cutting process and through 'wear and tear' "—that an examiner might be able to match a specific casing to a specific firearm.[5] This theory, however, has not been validated.[6]

In 2008, the National Research Council found that "the validity of the fundamental assumptions of uniqueness and reproducibility of firearms-related toolmarks" had not yet been demonstrated.[7] After this report was issued, some jurisdictions began to limit particular aspects of firearm-identification testimony. See *Abruquah v State*, 483 Md 637, 678 (2023) (collecting cases). These courts were largely concerned with experts overstating the certainty of any "match" they claimed to have found. See, e.g., *United States v Willock*, 696 F Supp 2d 536, 549 (D Md, 2010) (allowing an expert to "state his opinions and conclusions without any characterization as to the degree of certainty with which he holds them"); see also *People v Houston*, ___ Mich ___, ___; 18 NW3d 526, 527-528 (2025) (CAVANAGH, J., concurring) (citing additional cases). More recently, some

---

[2] President's Council of Advisors on Science and Technology, *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods* <https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/PCAST/pcast_forensic_science_report_final.pdf> (September 2016), p 2 (hereafter "PCAST Report") (accessed February 20, 2026) [https://perma.cc/NC46-D67J].

[3] PCAST Report, pp 1, 104.

[4] *Id*. at 104.

[5] *Id*.

[6] *Id*. at 105.

[7] *Id*. (quotation marks omitted).

courts have limited expert testimony to exclusions only—experts may not state that a "match" had been made, but could, for example, testify that "the recovered firearm cannot be excluded as the source of the recovered bullet fragment and shell casing . . . ." *United States v Shipp*, 422 F Supp 3d 762, 783 (ED NY, 2019). Other courts have ruled that firearm identification evidence should have been excluded. See, e.g., *Abruquah*, 483 Md at 696 (holding that a lower court erred by admitting toolmark evidence because "firearms identification has not been shown to reach reliable results linking a particular unknown bullet to a particular known firearm" and vacating the defendant's convictions because the error was not harmless).

Of course, numerous courts have found otherwise and have allowed toolmark identification evidence. But historic acceptance does not always equal scientific reliability. For example, so-called "bitemark" testimony was accepted for decades but has now been shown to be junk science.[8] We should follow the research with respect to *Daubert* challenges to aspects of toolmark identification. As previously stated by Justice MCCORMACK, "I believe there are serious questions about whether [toolmark] evidence has an adequate scientific foundation to allow its admission under MRE 702." *People v Mcadoo*, 497 Mich 975, 975 (2015) (MCCORMACK, J., concurring, joined by BERNSTEIN, J.); see also *Houston*, ___ Mich at ___; 18 NW3d at 527-528 (CAVANAGH, J., concurring).

[8] PCAST Report, p 87 (finding "that bitemark analysis does not meet the scientific standards for foundational validity").