

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

JOSEPH AMBROSE,

Petitioner,  
v.

Case No. 06-13361  
Honorable Thomas L. Ludington

RAYMOND D. BOOKER,

Respondent,  
\_\_\_\_\_ /

**ORDER SETTING BRIEFING SCHEDULE**

Joseph Ambrose was convicted by a Kent County jury of two counts of armed robbery, one count of carjacking, and one count of felony-firearm possession. But a computer glitch resulted in a jury venire with a statistically significant “underrepresentation of minorities.” *Ambrose v. Booker*, 684 F.3d 638, 641 (6th Cir. 2012). As a result, on March 10, 2011, this Court conditionally granted Ambrose’s habeas petition after finding that his right to be tried by a jury drawn from a fair cross-section of the community had been violated.

The Sixth Circuit required more. The court reversed the grant of Ambrose’s habeas petition and remanded the case, requiring that Ambrose demonstrate he suffered “actual prejudice.” In other words, Ambrose must demonstrate “a reasonable probability that ‘a properly selected jury [would] have been less likely to convict.’” *Id.* at 652 (quoting *Hollis v. Davis*, 941 F.2d 1471, 1480 (11th Cir. 1991)). It follows that to succeed on his habeas petition, Ambrose must satisfy the “particularly challenging charge” of answering the question “what would have happened?” had his jury panel been properly selected. *Ambrose*, 684 F.3d at 652. The Sixth Circuit directed that the question be answered “with a careful look at the transcripts involved, and with judgment that takes into account a fair balance of the competing interests of comity

toward the final judgments of the state's criminal processes and the protection of constitutional equal protection interests." *Id.*

The case was reopened, and the Court conducted a telephonic status conference on May 30, 2013 with counsel. During that time, a briefing schedule was established to determine whether Ambrose can satisfy the requirement the Sixth Circuit has explained.

Accordingly, it is **ORDERED** that Petitioner is **DIRECTED** to file his supplemental brief concerning whether he suffered "actual prejudice" by **June 21, 2013**.

It is further **ORDERED** that Respondent is **DIRECTED** to file a responsive supplemental brief concerning the issue no later than **July 12, 2013**.

It is further **ORDERED** that Petitioner is **DIRECTED** to file a reply brief by **July 19, 2013**.

It is further **ORDERED** that an evidentiary hearing is scheduled for **July 29, 2013** at **9:30 a.m.**

Dated: June 3, 2013

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 3, 2013.

s/Tracy A. Jacobs  
TRACY A. JACOBS