State of Michigan
In The Supreme Court

People of the State of Michigan
Plaintiff - Appellee

VS.

Larry Gerald Mead
Defendant - Appellant

Supreme Court No. 154584

Court of Appeals No. 327881

Circuit Court No. 14-004482-FH

10/12/17

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Larry Gerald Mead #232656
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1960 U.S. Hwy. 41 South
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Defendant's

Response to Prosecutor's Answer to

Application for Leave to Appeal

The state, in a government of the people, for the people and by the people, in the form of the chief appellate attorney and the Court of Appeals have both, in their respective briefs, answers and OPINIONS,

give witness to the Facts of the present case. The Facts are, in all essence, the truth in the case. At one time, (and defendant really wonders what happened to this) to tell the truth, THE WHOLE TRUTH, and nothing but the truth was a sworn requirement in a court of law. Has this adage been completely forgotten by the prosecution and, more remarkably, the Court of Appeals with their statements of Facts which include less than 50% of the truth/Facts and those neglected facts coincidently being those which firmly distinguish the present case and the LaBelle case? The whole truth, in all fairness to the integrity of the judicial system, should be, with even greater emphasis, mandated upon the state when they give witness to the facts; i.e., the truth rather than a half-truth misrepresentation of the Facts.

"In 4th Amendment cases, the court is obliged to look to all the facts and circumstances of the instant case in light of principles set forth in prior decisions." (South Dakota v Opperman, 96 S.Ct. 3092 at 3094, 8. Search and Seizure key 7).

"Essential element of any estoppel is detrimental reliance of adverse party's misrepresentations." (Lyng v Payne, 106 S.Ct. 2333 at 2333, 2. Estoppel Key 58).

There can be no truth, nor any fair or honest judgement without all the relevant facts being included in that judgement and so now, here, we have reached a point requiring review by This Honorable Court because the state has based their objection and the Court of Appeals has based their opinion on only a partial rendition of the facts in a prejudicial misrepresentation of the truth which must be estopped and which only mentions the facts supporting the prosecutor's stand on the two cases ("LaBelle" and "Mead") being indistinguishable and attempting to lend credence to the defendant having no standing to object,

However, the WHOLE TRUTH, and essential truths beneficial in endorsing the defendant's position which both the prosecution and the Court of Appeals have conveniently omitted and ignored in their witness to the facts, indicate, support and prove a completely opposite finding that the two cases are clearly

distinguishable by 6 major, excluded facts and that the defendant does, without question, have standing to object.

In "LaBelle" the defendant was ruled having no standing to object to the search of the vehicle which contained property of the defendant's that was not known by police to be the defendants. Defendant here, pointedly directs that this statement not be misconstrued the wrong way but he does concede that he has no standing to object to a search of the vehicle. HOWEVER, the defendant is not objecting to a search of the vehicle !!! The defendant is objecting to the search of his own personal property that; was technically seized by police 5 times in defendant's immediate possession prior to the unauthorized warrentless search; was determined to the defendants possession in his possession for 25-minutes prior to the search by the District Court; police knew was the defendants property; was the only property police talked about searching on the video of the arrest, indicating the search was directed at the defendant; was in fact the only property searched; was ruled not abandoned by the Court of Appeals; was ruled that there was

no valid consent given to search the back pack and; was ruled by the Court of Appeals that defendant had a valid privacy right recognized by society in the backpack. Under any of several concepts of standing to object, those rulings and facts accredit the defendant's standing to object and it is unconscionable with that knowledege how anybody without extreme prejudice covld argue otherwise or come to any other conclusion.

Per Rakas v Illinois 439 US 128 at LEXIS, HNS, "The Issue of standing involves two inquiries; first whether the proponant of a particular right has alleged injury in fact, and second, whether the proponant is asserting his own legal rights and interests rather than basing his claim for relief upon the rights of third parties," As for (1), the defendant being convicted of the possession and being Incarcerated in prison proves injury in Fact and, (2) defendant is basing his claim on the search of his own personal private property which police knew to be his prior to the search and determined as a fact of law in District Court to be defendant's possession in his

possession prior to the search and thus eliminating any alleged third party.

Per United States v Cobb 432 F.2d 716, 1970 U.S. App. LEXIS 7312 at HN3, "Fed. R. Crim. P. 41(e) gives to any person aggrieved by an unlawful search and seizure the right to move to suppress evidence thereby secured." At HN4, "In order to qualify as a person aggrieved by an unlawful search and seizure one must have been victom of a search and seizure, one against whom the search was directed, as distinguished from one who claims prejudice only through the use of evidence gathered as a consequence of a search or seizure directed at someone else." Remember, police only discussed searching defendant's backpack and only searched defendant's backpack which they knew was his. (VOA) And most importantly at HN5, "One charged with a crime of which possession is an essential element has standing to challenge the validity of a search, without regard to whether he asserts an invasion of his privacy because of either a propriety or possessory interest in the premisis or vehicle searched." "LaBelle" is contradictory to this Federal ruling and as

such, it's application in the present case is in violation of the supremecy clause of the United States Constitution.

Defendant has standing to object per U.S. v Hays, 115 S.Ct. 2431 at 2432, 2. Federal Civil Procedure Keys 103.2 and 103.3 regarding U.S.C.A. Const. Art. 3, § 1 et. seq. and also Alderman v U.S. 394 US 165, LEXIS, HN's #3 and 6 regarding Search and Seizure Key § 33.

Jones v US, 362 US 257 states at LEXIS, HN7," "Anyone legitimately on premisis where search occurs may challenge its legality by way of motion to suppress, when it's fruits are proposed to be used against him." Remember that in People v Gonzolez 356 Mich 247, that a "vehicle" is refered to as a "premisis" and in reality defendants back pack was searched in the street not in the vehicle.

Also in "Gonzolez" the Michigan Supreme Court ruled at 13." Passenger of car, stopped at 4 AM for traffic violation because driven with one head light, had a right to raise constitutional objection to search and seizure of unlicensed pistol in absence of waiver of objection by anyone, since the request to remove himself

from the automobile, where he had a right to be, directly affected him." And, at 15." The Supreme Court of the United States is the sole authoritive interpreter of the Constitution of the United States and speaks only through opinions adopted by the majority of the Court."

It is clear that per defendant's 4th Amendment rights concerning standing to object that the U.S. Supreme Court gives the defendant the standing to object to the search of property police knew prior to the search to be defendant's own personal private property which he had a secured privacy interest in.

Michigan law makes it clear also in People v Smith 420 Mich 1 at LEXIS, HN 1 stating, "The Basis for standing to challenge a search or seizure may be possession, physical location, or right to privacy among other things." Defendant meets ALL of these standards. He was ruled in possession of the back pack in District Court as a fact of law, the back pack set in his lap with his arms around it for 25 minutes prior to the search and as a depository of his personal effects as a homeless person he had a right to privacy in the back pack. At HN 7, "Standing

is related to ownership and standing is a right that cannot be excercized vicariously." Everybody present at the site of the arrest knew the back pack was the defendant's and only the defendant's.

The ruling in "Smith" is again relied upon and cited in People v Blake, 1998 Mich. App. LEXIS 2400, again in People v Mims 2004 Mich. App. LEXIS 406 and quotes People v Weaver 35 Mich. App. 504 stating, "Defendant, therefore, has a standing to object to the introduction of the evidence as he was charged with which an essential element is possession."

Returning to main issue of estoppel which the State refuses to address, the contrary assertions made by the state regarding possession in District Court and in Circuit Court give the defendant standing to object as has been previously cited in defendants initial brief quoting Jones v United States 362 US 309 at LEXIS, LEdHR(6)[6]. The fact of the matter is, since "LaBelle" and the present case are clearly distinguishable when ALL the facts are reviewed, the State has no standing to object to defendant's Standing to object!!!

"Where public safety is not genuinely in jeopardy, 4th Amendment precludes suspicionless search, no matter how conveniently arrainged." (Chandler v Miller, 117 S.Ct. 1295 at 1296, 15. Search and Seizure Key 37). Certainly getting permission to search property known to be property of another persons through drivers alleged consent to search a vehicle violates this prohibition.

"The rights protected by the 4th Amendment are not to be eroded by strained application of the law of agency or by unrealistic doctorines of apparent authority." (Stoner v California, 376 US 483 at LEXIS, HNS."

"Constitutional provisions for security of property should be liberally construed." (Coolidge v New Hampshire, 91 S.Ct. 2022 at 2022, 6. Search and Seizure Key 2)

It is unbelievable to the defendant that in the United States of America that any person could honestly believe that a person had no standing to object to a search of his own personal private property that police knew was that persons property and that they had no valid permission from the known owner to search. The Search was clearly illegal, the defendant has, without a

doubt, standing to object to the introduction of illegally seized evidence and per the laws of this State, the search and seizure of defendant and his property were unreasonable and requires suppression of the evidence and a reversal of the conviction. (People v Shabez, 424 Mich. 42).

Once again Plaintiff attempts to hide the truth/ Facts which are relevant to the Defendant's defense with 1928 case law ([P.3] People v Miller, 245 Mich. 115). and which has been overruled in People v Talley, 410 Mich. 378.

Also, once again the Plaintiff attempts to defraud the Court at Page 2, Line 7 of their "Answer" with a misrepresentation of the Facts in their first reason to deny leave to appeal stating: " First, as defendant has admitted and the Court of Appeals ruled, 'LaBelle' is indistinguishable."

It is quite obvious after reading Defendant's Requests for Leave to Appeal, I and II, to the Michigan Supreme Court, Defendant's Response to Plaintiffs "Answer", I and II, Defendant's arguement at evidentuary hearing 2-20-15

that the Defendant is arguing that "LaBelle" is clearly distinguishable from the present case and not indistinguishable as the Plaintiff misleadingly portray's. In Defendant's original leave to appeal to the Michigan Court of Appeals prepared by, Filed by (and done so while disregarding defendants specific request to review before filing and requested to be amended after Filing) the Defendant's personally appointed appellate attorney by the sentancing judge made this erroneous and detrimental claim and not the Defendant himself.

As for the second reason the Plaintiff argues to deny leave to appeal at page 2, Line 7 of the "Answer," "Second, even if this court concludes that 'LaBelle' is wrong and should be overruled, the officer relied in good Faith on it." Officer Burkhart cannot be ruled as having relied on good faith to search the backpack. The "good faith" of "LaBelle" is based on a search of a vehicle in which there was valid permission given to search the vehicle.

In the present case the officers only discussed searching the defendants back pack and only searched the

back pack (VOA), with full knowledge that the backpack was the defendant's (PET page 18, lines 14-16; "Q. Okay, you thought for all the world that was his since he was holding it? A. Correct;"), the officer never asked for and never got permission to search the back pack from the defendant (PET page 21, lines 16-18), and tried to justify his knowledgeable violation of Defendant's 4th Amendment rights and circumvent the Defendant's 4th Amendment rights in what should be precedented at present as a bad-faith unexceptional excuse to dispose of 4th Amendment prohibitions. The officer knew that he only intended to and only did search the Defendant's backpack and did so knowing that his alleged "good faith" was tarnished because he knew that the driver had no authority to give him permission to search the Defendant's back pack and that in fact it was not a vehicle search at all, thus eliminating any fantasy of "good faith" based upon "LaBelle"

Last at page 4 of "Answer", Plaintiff claims that defendant himself no longer claims "LaBelle" to

have been incorrectly decided. Again that is a statement made by inept counsel and not the Defendant. It is not really at issue anyway. The issue is the distinguishability of "LaBelle" which clearly is distinguishable, if all the Facts are reviewed, and whether "LaBelle" is applicable to the present case.

Since "LaBelle" is a basis for a valid vehicle search and the present case concerns property found in the Defendants possession, ruled by the District Court to be the Defendant's possession in his possession with police knowledge that it was the defendant's property and that police did not obtain any permission to search the personal private property which the Defendant had a reasonable expectation of privacy in, the search must be deemed exactly what it was; a search of private property without consent, a warrent or a valid exception to the warrent clause of the 4th Amendment.

Please let the Court not forget that the 2nd, 3rd and 4th technical seizures of the Defendant and the back pack setting in his lap were unreasonable and they violated the Defendant's 4th Amendment rights prior to

any alleged "good faith" reliance of the officer and negates any police action there after.

After over 3 years the prosecution has reached into the G.E.D. equivalent Defendants brief to come up with this "Hail Mary", invalid excuse of the officers "good Faith" reliance an "LaBelle", Remember that per the video of the trial when the officer was asked if he had "ANY reason" to search the backpack he answered "NO". This alleged "good faith" claim should have been addressed during re-direct at trial if it actually was a fact. "Good faith" was never mentioned at trial, when in motion for directed verdict of acquittal or in the prosecutor's 1st "Answer" to the Defendant's 1st Leave to Appeal and is actually a non-allowable testimonial statement made by the prosecutor in yet another unethical presentation.

Since in reality the search in question was an invalid non-consentual search of private personal property without probable cause, warrent or exception to the warrent clause and not even remotely a vehicle search, the Defendant respectFully requests that

this Honorable Court rule that the evidence seized must be suppressed, the conviction reversed, the sentance vacated and that the Defendant / Prisoner be released From custody. Thank-You.

Respect Fully Submitted
Larry G. Mead 10/12/17
Larry G. Mead 232656
Marquette Branch Prison
1960 U.S. Hwy 41 South
Marquette, Mich. 49855

State of Michigan
In The Michigan Supreme Court

People of the State of Michigan
Plaintiff - Appellee

V S.

Larry Gerald Mead
Defendant - Appellant

Supreme Court No. 154 584

Court of Appeals No. 327881

Jackson Co. Clr. No. 14-004482- FH

10/12/17

Proof of Service

I, Larry G. Mead 232656, swear that on this day October 12, 2017 that I mailed by U.S. Mail 1st Class postage 1 copy of the following document:

1- Response to Plaintiff's Answer to Defendant's Application For Leave to Appeal. (Plaintiff / Prosecutor)

TO: Jerrold Schrotenboer
Chief Appellate Attorney
Jackson County
312 S. Jackson Street
Jackson, Mich. 49201

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

10/12/17

Larry G. Mead 10/12/17
Larry G. Mead 232656
Marquette Branch Prison
1960 U.S. Hwy 41 South
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State of Michigan
In The Michigan Supreme Court

10/12/17

Clerk's Office
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Hall of Justice
P.O. Box 30052
Lansing, Mich. 48909

Supreme Court No. 154584

Court of Appeals No. 327881

Jackson Co. Cir. No. 14-004482-FH

People of the State of Michigan
V S.
Larry Gerald Mead

Dear Clerk,

Enclosed please find originals of the documents listed below. I am indigent and cannot provide four copies.

1- Proof of Service
1- Response to Plaintiffs Answer to Application For Leave to Appeal
1- Complaint of Plaintiffs failure to Comply as Obligated
1- 10 page copies of supporting documents of Complaint.

Larry G. Mead 10/12/17
Larry G. Mead 232656
Marquette Branch Prison
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Marquette, Mich. 49855

Respectfully Submitted,
Larry G. Mead
Larry G. Mead 232656

10/12/17

Copy of Response to Plaintiffs Answer
Sent to:
Jerrold Schrotenboer
Chief Appellate Attorney
Jackson County
312 S. Jackson Street
Jackson, Mich. 49201