

Order

Michigan Supreme Court
Lansing, Michigan

March 18, 2020

Bridget M. McCormack,
Chief Justice

159371
159373

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 159371
COA: 341627
Ingham CC: 17-000407-FH

GERALD MAGNANT,
Defendant-Appellant.

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 159373
COA: 341621
Ingham CC: 17-000406-FH

JOHN FRANCIS DAVIS,
Defendant-Appellant.

On order of the Court, the applications for leave to appeal the February 5, 2019 judgment of the Court of Appeals are considered. We direct the Clerk to schedule oral argument on the applications. MCR 7.305(H)(1).

The appellants shall file supplemental briefs within 42 days of the date of this order addressing: (1) whether MCL 205.428(3) requires proof that the defendants knew that they were transporting cigarettes in a manner “contrary to” the Tobacco Products Tax Act (TPTA), MCL 205.421 *et seq.*, see generally *Rehaif v United States*, 588 US ___; 139 S Ct 2191 (2019); *Rambin v Allstate Ins Co*, 495 Mich 316, 327-328 (2014); (2) whether nonsupervisory employees fall within the definition of “transporter” under MCL 205.422(y); and (3) if so, whether the TPTA’s definition of “transporter” satisfies due process by putting the defendants on fair notice of the conduct that would subject them to punishment, see *People v Hall*, 499 Mich 446, 461 (2016). In addition to the briefs, the appellants shall electronically file appendices conforming to MCR 7.312(D)(2). In the briefs, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the latter of the appellants’ brief. The appellee shall

also electronically file an appendix, or in the alternative, stipulate to the use of the appendices filed by the appellants. Replies, if any, must be filed by the appellants within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The time allowed for oral argument shall be 30 minutes: 15 minutes for appellants, to be divided at their discretion, and 15 minutes for appellee. MCR 7.314(B)(2).

The Criminal Defense Attorneys of Michigan and the Prosecuting Attorneys Association of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae. Motions for permission to file briefs amicus curiae and briefs amicus curiae regarding these cases should be filed in *People v Magnant* (Docket No. 159371) only and served on the parties in both cases.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 18, 2020

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk