

STATE OF MICHIGAN  
IN THE SUPREME COURT

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,

Supreme Court no. 160150  
Court of Appeals no. 339668  
Circuit Court no. 15-031675-AR  
District Court no. 15-1272-STA

v.

ANTHONY MICHAEL OWEN,  
Defendant-Appellee.

---

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APPELLANT'S APPENDIX

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Order from 8<sup>th</sup> Circuit Court Denying Leave

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STATE OF MICHIGAN

IN THE EIGHTH CIRCUIT COURT FOR THE COUNTY OF IONIA

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

Circuit Court  
No. 15H31675-AR  
District Court  
No. 151272STA

ANTHONY MICHAEL OWEN,  
Defendant-Appellant.

Adam M. Dreher (P-79246)  
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FILED  
JUL 24 2017

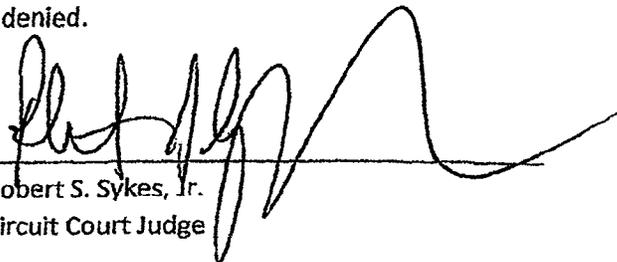
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Janae K. Cooper, County Clerk  
County Clerk's Office, Ionia, MI

The court having reviewed the Defendant-Appellant's Application for Leave to Appeal and the People's Answer,

IT IS ORDERED that the Application for Leave to Appeal is denied.

Dated: 7-24-17

  
Robert S. Sykes, Jr.  
Circuit Court Judge

DEFENSE EXHIBIT  
Prepared By:  
Edward J. Sternisha  
(P75394)

U

Order from Court of Appeals Denying Leave

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**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Anthony Michael Owen

Docket No. 339668

LC No. 2015-031675-AR

William B. Murphy  
Presiding Judge

Jane E. Markey

Jane M. Beckering  
Judges

---

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JAN 30 2018

Date

*Jerome W. Zimmer Jr.*  
Chief Clerk

Order from Michigan Supreme Court Remanding Case

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# Order

September 12, 2018

157380

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

ANTHONY MICHAEL OWEN,  
Defendant-Appellant.

SC: 157380  
COA: 339668  
Ionia CC: 2015-031675-AR

Michigan Supreme Court  
Lansing, Michigan

Stephen J. Markman  
Chief Justice

Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Kurtis T. Wilder  
Elizabeth T. Clement  
Justices

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On order of the Court, the application for leave to appeal the January 30, 2018 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration as on leave granted.



10905

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.

September 12, 2018

Clerk

Order from Court of Appeals Reversing

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STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY MICHAEL OWEN,

Defendant-Appellant.

---

UNPUBLISHED

July 23, 2019

No. 339668

Ionia Circuit Court

LC No. 2015-031675-AR

Before: SAWYER, P.J., and BORRELLO and SHAPIRO, JJ.

PER CURIAM.

Defendant appeals by leave granted following his convictions for operating while visibly impaired, MCL 257.625(3); and being a concealed pistol licensee in possession of a firearm while intoxicated, MCL 28.425k(2). We reverse and remand.

This case arose from a deputy sheriff's traffic stop of defendant for allegedly driving 43 miles per hour in a 25-mile-per-hour zone in the Village of Saranac. The deputy required defendant to perform a series of field sobriety tests and gave him a preliminary breath test, which defendant failed. The deputy placed defendant under arrest. Defendant moved to suppress all evidence obtained during the traffic stop and for dismissal of the charges against him on the ground that his constitutional rights under Const 1963, art 1, § 11 and US Const, Am IV, were violated by the deputy who had no lawful basis for stopping defendant because the speed limit on the unposted road was 55 miles per hour pursuant to the statutory general speed limit under MCL 256.628(1). The district court initially denied defendant's motion, and he appealed to the circuit court, which remanded for an evidentiary hearing that resulted in the district court's grant of defendant's motion and plaintiff's appeal to the circuit court. The circuit court affirmed the district court's decision, and plaintiff moved for reconsideration, which led to the circuit court remanding for another evidentiary hearing that established certain facts. Upon reconsideration of its previous ruling, the circuit court reversed itself and vacated the district court's decision. Defendant entered a conditional guilty plea and sought leave to appeal the circuit court's decision. This Court denied defendant leave to appeal, and defendant sought leave to appeal to our Supreme Court, which in lieu of granting leave remanded the case to this Court for consideration as on leave granted. *People v Owen*, \_\_\_ Mich \_\_\_; 917 NW2d 79 (2018).

Defendant first argues that the circuit court erred by vacating the district court's suppression and dismissal ruling because the deputy unlawfully stopped defendant in violation of his constitutional rights and the circuit court incorrectly ruled that the deputy made a reasonable mistake of the law despite lacking an articulable and reasonable suspicion that defendant violated any law. We agree.

"A trial court's findings of fact on a motion to suppress are reviewed for clear error, while the ultimate decision on the motion is reviewed de novo." *People v Hrlic*, 277 Mich App 260, 262-263; 744 NW2d 221 (2007). "Clear error exists if the reviewing court is left with a definite and firm conviction that a mistake has been made." *People v Johnson*, 466 Mich 491, 497-498; 647 NW2d 480 (2002). This Court reviews de novo as a question of law matters of statutory interpretation. *People v Thomas*, 263 Mich App 70, 73; 687 NW2d 598 (2004).

The Fourth Amendment of the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [US Const, Am IV.]

In *People v Jones*, 260 Mich App 424, 428-429; 678 NW2d 627 (2004), this Court explained:

The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches and seizures.

\* \* \*

An investigatory stop, which is limited to a brief and nonintrusive detention, constitutes a Fourth Amendment seizure. In order to effectuate a valid traffic stop, a police officer must have an articulable and reasonable suspicion that a vehicle or one of its occupants is subject to seizure for a violation of law. The reasonableness of an officer's suspicion is determined on a case-by-case basis in light of the totality of the facts and circumstances and specific reasonable inferences he is entitled to draw from the facts in light of his experience. [Quotation marks and citations omitted.]

In assessing the protections created by the Fourth Amendment, the United States Supreme Court has "long held that the 'touchstone of the Fourth Amendment is reasonableness.'" *Ohio v Robinette*, 519 US 33, 39; 117 S Ct 417; 136 L Ed 2d 347 (1996) (citation omitted). Reasonableness is measured by examining the totality of the circumstances. *Id.* Because of " 'endless variations in the facts and circumstances' " implicating the Fourth Amendment, reasonableness is a fact-intensive inquiry that does not lend itself to resolution through the application of bright-line rules. *Id.*, quoting *Florida v Royer*, 460 US 491, 506; 103 S Ct 1319; 75 L Ed 2d 229 (1983). A defendant may not be detained unless reasonable, objective grounds exist for doing so. *Royer*, 460 US at 498. Under *Terry v Ohio*, 392 US 1, 20;

88 S Ct 1868; 20 L Ed 2d 889 (1968), a search or seizure’s reasonableness depends on “whether the officer’s action was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.”

“A traffic stop for a suspected violation of law is a ‘seizure’ of the occupants of the vehicle and therefore must be conducted in accordance with the Fourth Amendment.” *Heien v North Carolina*, 574 US 54, \_\_\_; 135 S Ct 530, 536; 190 L Ed 2d 475 (2014) (quotation marks and citations omitted). To be a lawful search and seizure, law enforcement must exercise “reasonableness.” *People v Beuschlein*, 245 Mich App 744, 749; 630 NW2d 921 (2001). The Fourth Amendment permits investigative stops “when a law enforcement officer has a particularized and objective basis for suspecting the particular person stopped” broke the law. *Navarette v California*, 572 US 393, 396; 134 S Ct 1683, 1687; 188 L Ed 2d 680 (2014) (quotation marks and citation omitted). This basis for making a stop is known as reasonable suspicion. See *id.*

In *Heien*, the United States Supreme Court explained that a “[r]easonable suspicion arises from the combination of an officer’s understanding of the facts and his understanding of the relevant law.” *Heien*, 574 US at \_\_\_; 135 S Ct at 536. A violation of the Fourth Amendment requires “suppression of the unlawfully obtained evidence.” *People v Cartwright*, 454 Mich 550, 558; 563 NW2d 208 (1997). This is known as the exclusionary rule. See *Mapp v Ohio*, 367 US 643, 656; 81 S Ct 1684; 6 L Ed 2d 1081 (1961). “The goal of the exclusionary rule . . . is to deter police misconduct.” *People v Goldston*, 470 Mich 523, 538; 682 NW2d 479 (2004). Therefore, “the exclusionary rule should be employed on a case-by-case basis and only where exclusion would further the purpose of deterring police misconduct.” *Id.* at 531. This Court has held that courts must suppress evidence otherwise lawfully seized during a traffic stop if the law enforcement officer lacked a reasonable suspicion to justify the stop. *People v Dillon*, 296 Mich App 506, 509; 822 NW2d 611 (2012).

In Michigan, speed limits are statutorily defined under the Motor Vehicle Code, MCL 257.601 *et seq.* At times relevant to this case, MCL 257.627<sup>1</sup> provided in relevant part:

(2) Except in those instances where a lower speed is specified in this chapter or the speed is unsafe pursuant to subsection (1), it is prima facie lawful for the operator of a vehicle to operate that vehicle at a speed not exceeding the following, except when this speed would be unsafe:

(a) 25 miles per hour on all highways in a business district.

\* \* \*

(d) 25 miles per hour on a highway segment with 60 or more vehicular access points within 1/2 mile.

<sup>1</sup> MCL 257.627 was amended in 2012 by Public Act 252 and again in 2016 by Public Act 445.

(e) 35 miles per hour on a highway segment with not less than 45 vehicular access points but no more than 59 vehicular access points within 1/2 mile.

(f) 45 miles per hour on a highway segment with not less than 30 vehicular access points but no more than 44 vehicular access points within 1/2 mile.

(3) It is prima facie unlawful for a person to exceed the speed limits prescribed in subsection (2), except as provided in section 629.

\* \* \*

(11) Nothing in this section prevents the establishment of an absolute speed limit pursuant to section 628. Subject to subsection (1), an absolute speed limit established pursuant to section 628 supersedes a prima facie speed limit established pursuant to this section. [Footnote omitted.]

At times relevant to this case, MCL 257.628 provided in relevant part:

(1) . . . The maximum speed limit on all highways or parts of highways upon which a maximum speed limit is not otherwise fixed under this act is 55 miles per hour, which shall be known and may be referred to as the “general speed limit”.

The Village of Saranac could adopt traffic regulations that the Motor Vehicle Code authorized, but before such became enforceable, the ordinances or regulations were required to be posted on signs that gave notice to ordinarily observant persons of the local traffic regulations. See former MCL 257.606(1)(l) and (3).<sup>2</sup> At times relevant to this case, effective November 9, 2006, MCL 257.629 provided in relevant part:<sup>3</sup>

(1) Local authorities may establish or increase the prima facie speed limits on highways under their jurisdiction subject to the following limitations:

\* \* \*

(c) Local authorities may establish prima facie lawful speed limits on highways outside of business districts that are consistent with the limits established under section 627(2).

If Saranac desired to modify the statutorily defined speed limits required under MCL 257.627, it had to follow the procedures set forth in MCL 257.627 and MCL 257.628 for lawful

<sup>2</sup> MCL 257.606 was amended in 2016 by Public Act 448.

<sup>3</sup> MCL 257.629 was repealed during 2016 by Public Act 445, and the repeal became effective January 5, 2017.

modification of speed limits. Any modification of the statutorily defined speed limits had to be a matter of public record under MCL 257.628(6), which required local authorities like villages to have a public record of traffic control orders that establish the legal and enforceable speed limit for the highway segment described in the document and any modification of the statutorily defined speed limits. MCL 257.628(5) and (6) generally required posting of speed limits that modified the statutorily defined speed limits.

In this case, witnesses' testimonies established that Saranac had no public record of any modification of the statutorily defined speed limits under MCL 257.627. The evidence also established that the road where the traffic stop occurred lacked any speed limit signage within and without Saranac's village boundary visible to drivers traveling southbound. Under MCL 257.628(1), the road's speed limit was 55 miles per hour at the time of the deputy's traffic stop of defendant. Testimony by a Michigan State Police lieutenant established that the enforceable speed limit on the road was and remained 55 miles per hour at times relevant to this case. Pursuant to MCL 257.627, the statutorily defined speed limit on the road, if properly posted, would have been 45 miles per hour, but because the village neglected to post the speed limit, the statutory general speed limit applied. The record indicates that defendant drove 43 miles per hour southbound on the road. Accordingly, defendant lawfully traveled on the road the night of the traffic stop. The deputy testified that he stopped defendant because he mistakenly believed that the speed limit on the road was 25 miles per hour.

This case requires determination whether, under the totality of the circumstances, the deputy had an articulable and reasonable suspicion that a vehicle or one of its occupants was subject to seizure for a violation of law. To determine the reasonableness of the deputy's action, we consider from what source of law he gained his purported reasonable-but-mistaken understanding. At the time of the stop, Michigan's Vehicle Code did not permit an officer to stop a vehicle on an unposted road for exceeding the speed limit based on a belief that the road had a 25-mile-per-hour speed limit. Nor could an officer reasonably infer from the Motor Vehicle Code that he could stop a vehicle on an unposted road for exceeding the speed limit based on such a belief. Under MCL 257.628(1), because the road had no posted speed limit sign, the speed limit was 55 miles per hour. A reasonably competent law enforcement officer should have known that.

The record reflects that the deputy in this case admitted that he knew that the speed limit was not posted on the road for vehicles traveling south. He admitted that no speed limit was posted where he stopped defendant and that he knew that at that location because it was not posted that the speed limit was 55 miles per hour. The deputy also admitted that no traffic control device or sign told motorists traveling southbound on the road the speed limit a motorist had to observe. The record indicates that the deputy merely believed that the speed limit on the road was 25 miles per hour because 25-mile-per-hour speed limits were posted on some streets entering Saranac. Evidence established that the village had no sign posted anywhere that provided that the village had a general village speed limit by ordinance or regulation. Since 2006, under the Motor Vehicle Code, villages could not have blanket village-wide 25-mile-per-hour speed limits within their boundaries.

Michigan's Supreme Court long ago opined that officers of the law must act within the law. *People v Halveksz*, 215 Mich 136, 138; 183 NW 752 (1921). Further, it is axiomatic that reasonably competent law enforcement officers should know the law governing their conduct.

See generally *Harlow v Fitzgerald*, 457 US 800, 818-819; 102 S Ct 2727; 73 L Ed 2d 396 (1982). Although the deputy in this case was not required to be perfect, his mistake of law still had to be one of a reasonable law enforcement officer. See *Heien*, 574 US \_\_\_; 135 S Ct at 536. Even the deputy in this case admitted that an officer enforcing a speed limit should know the speed limit. The record in this case, however, establishes that the deputy failed to know the basic Michigan law provided under the Motor Vehicle Code, the very law he was tasked to enforce.

The deputy in this case did not make a reasonable mistake of law because the Motor Vehicle Code since 2006 established the rule of law regarding speed limits throughout Michigan. Under the Motor Vehicle Code, unposted roads were 55 miles per hour. See MCL 257.628(1). The deputy's testimony does not reflect a reasonable interpretation of the Motor Vehicle Code or even a plausible understanding of the applicable law. The record indicates that he never considered the Motor Vehicle Code at all. We conclude that the deputy did not have an objectively reasonable belief that probable cause existed to stop defendant because the totality of the circumstances established that he made an unreasonable mistake of law merely based on an unsupported hunch that the speed limit was 25 miles per hour because other roads were posted elsewhere in the village with that speed limit. However, since 2006, nearly 10 years before the traffic stop, the Motor Vehicle Code repealed blanket village-wide speed limits. The circuit court erred because it essentially held that a law enforcement officer's unreasonable ignorance of the law was equivalent to a reasonable mistake of the law.

Therefore, we hold that the circuit court erred by vacating the district court's suppression and dismissal ruling because analysis of the totality of the circumstances in this case establishes that the deputy lacked an articulable and reasonable basis for making the traffic stop. The deputy's subjective mistaken belief that the speed limit was 25 miles per hour lacked objective reasonableness. Therefore, the traffic stop was not lawful and it violated defendant's constitutional rights requiring suppression of the evidence obtained by the unlawful stop.

Defendant also argues without citation to any authority that the circuit court erred by reconsidering its ruling without first making a finding that palpable error existed. We disagree.

We review for an abuse of discretion a lower court's decision on a motion for reconsideration. *Woods v SLB Property Mgt, LLC*, 277 Mich App 622, 629; 750 NW2d 228 (2008). We review de novo the proper interpretation and application of statutes and court rules. *Estes v Titus*, 481 Mich 573, 578-579; 751 NW2d 493 (2008).

In *People v Walters*, 266 Mich App 341, 351-352; 700 NW2d 424 (2005), this Court explained that a circuit court sitting as an appellate court had no obligation to make a palpable error finding before granting a motion for reconsideration. Therefore, under *Walters*, the circuit court in this case had no obligation to make a palpable error finding before granting plaintiff's motion for reconsideration.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer  
/s/ Stephen L. Borrello  
/s/ Douglas B. Shapiro

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Order from Michigan Supreme Court Granting Oral Argument

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940 N.W.2d 68 (Mem)  
Supreme Court of Michigan.

PEOPLE of the State of  
Michigan, Plaintiff-Appellant,

v.

Anthony Michael OWEN, Defendant-Appellee.

SC: 160150

|

COA: 339668

|

March 23, 2020

Ionia CC: 2015-031675-AR

**Order**

On order of the Court, the application for leave to appeal the July 23, 2019 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing whether the arresting deputy

made an objectively reasonable mistake of law regarding the applicable speed limit that justified the traffic stop of the defendant’s vehicle. See *Heien v. North Carolina*, 574 U.S. 54, 135 S.Ct. 530, 190 L.Ed.2d 475 (2014). In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, 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 appellant’s brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee’s brief. The parties should not submit mere restatements of their application papers.

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 issue presented in this case may move the Court for permission to file briefs amicus curiae.

**All Citations**

940 N.W.2d 68 (Mem)

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Trial Court Register of Actions

Caseload Dsp: TR

Crt: C 08 34 Jur: HOORT Ref:  
Case: 2015 31675 AR STATE OF MICHIGAN V OWEN  
Atty: DREHER - STERNISHA Worker:  
File: 12/23/2015 Dispose: 2/22/2017 Reopen: 2/22/2017 Close: 2/22/2017

CLOSE Pub

P 001 STATE OF MICHIGAN  
350 OTTAWA AVE., N.W.  
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P 79246 Ph#: 989/224-9449  
PROSECUTOR: ANS: 07/19/2017  
RONALD J. SCHAFER P 56466

D 001 ANTHONY MICHAEL OWEN  
335 SUMMIT STREET  
SARANAC, MI 48881  
DOB: 02/20/1988 Gender: M  
ATTORNEY: EDWARD JACOB STERNISHA  
P 75394 Ph#: 616/233-2255  
DISPOSED: 02/22/2017 REMAND

Events, Actions, and Judgments

NUM	Date	Jurist	Chg/Party	Clerk
1	12/23/2015			TR
	APPEAL FILED appeal from District Court to Circuit Court			
2	12/23/2015			CLCASH
	NOTICE OF FILING OF TRANSCRIPT AND AFFIDAVIT OF MAILING			
3	12/23/2015			CLCASH
	TRANSCRIPT PREPARED/FILED Re Motion to Suppress and Dismiss			
4	12/30/2015		P 001	SL
	ANSWER FILED Plaintiff-Appellee's Answer to Def-appellant's Application for Leave to Appeal; POS;			
5	01/08/2016			TR
	ORDER Order on Application for Leave to Appeal SET NEXT DATE: HRG 01/19/2016 10:00 AM HOORT COURTROOM: 1 oral argument			
6	01/19/2016			SL
	Oral Argument Hearing; (B. Lester CER 8221 Recording);			
7	01/19/2016			SL
	REMAND ORDER DISP: REMAND Order on Application for Leave to Appeal			
8	01/22/2016			SL
	File has been remanded to District Court;			
9	02/17/2016			TR
	ORDER Order Determining Speed Limit, Proof of Service			
10	02/18/2016			SL
	TRANSCRIPT PREPARED/FILED			

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Caseload Dsp: TR

Crt: C 08 34 Jur: HOORT  
Case: 2015 31675 ARRef:  
STATE OF MICHIGAN V OWEN

CLOSE Pu

11	03/18/2016	Evidentiary Hearing on 02/08/2016; D 001	TR
		MOTION	
12	03/21/2016	Motion for Oral Arguments, Notice of hearing, Proof of Service	TR
		ADD TO FILE	
13	03/31/2016	Appellee's answer to def appellants motion for oral argument	PM
		ADD TO FILE	
		Request and Notice for Film and Electronic Media Coverage of Court Proceedings	
14	04/01/2016		SJAUSTIN
		MOTION HEARING	
		Motion for Oral Argument (L. Heydenburk recording)	
15	04/06/2016		SL
		NOTICE OF PRESENTMENT	
		re: order remanding matter to trial court (PULL ON APRIL 14, 2016 and send to Judge Sykes)	
16	04/07/2016		SJAUSTIN
		addition to NOTP received (signed order to remand)	
17	04/14/2016		SL
		7 day pulled; No Objection Filed; Sent to Judge Sykes for Signature;	
18	04/14/2016		SJAUSTIN
		ORDER	
		Order Remanding to Trial Court	
20	04/14/2016		CLCASH
		REOPEN CASE	
21	04/14/2016		CLCASH
		REMAND ORDER	
		Order Remanding to District Court	
19	04/22/2016		SJAUSTIN
		TRANSCRIPT PREPARED/FILED	
		Motion to Suppress and Dismiss; continuation of Motion	
22	05/23/2016		SJAUSTIN
		CLAIM OF APPEAL	
23	05/23/2016		SL
		NOTICE	
		Notice of Filing of Transcript and Affidavit of Mailing; Reporter/Recorder Certificate of Ordering of Transcript on Appeal; Affidavit of Mailing;	
24	05/23/2016		SL
		TRANSCRIPT PREPARED/FILED	
		Motion to Suppress and Dismiss Hearing at District Court	
25	06/24/2016		SJAUSTIN
		MOTION	
		Motion to Dismiss; POS	
26	06/27/2016		SL
		NOTICE	
		Certificate of Records Transmitted for Appeal and Notice to Parties	
27	06/27/2016	D 001	TR
		MOTION	
		Motion to Dismiss, Proof of Service	
28	06/28/2016	P 001	TR
		BRIEF FILED	

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Caseload Dsp: TR

Crt: C 08 34 Jur: HOORT  
Case: 2015 31675 AR

Ref:  
STATE OF MICHIGAN V OWEN

CLOSE P

(not scanned)

29 07/19/2016 JC  
BRIEF FILED  
Defendant's/Appellee's Brief on Appeal Oral Argument Requested; Proof  
of Service

30 07/25/2016 CLCASH  
RESPONSE  
People's Reply to Defendant-Appellee's Brief on Appeal; POS

31 08/09/2016 SJAUSTIN  
NOTICE OF HEARING  
re: notice of oral argument; POS  
SET NEXT DATE: HRG 08/22/2016 3:00 PM HOORT COURTROOM: 1

32 08/22/2016 SJAUSTIN  
ADD TO FILE  
Request and Notice for Film and Electronic Media Coverage

34 08/25/2016 TR  
NOTICE OF PRESENTMENT

35 08/25/2016 TR  
ORDER  
Order Affirming District Ct suppression of Evidence & Dismissal of  
Case

33 08/30/2016 TR  
TRANSCRIPT PREPARED/FILED  
Re Oral Argument

36 09/14/2016 SJAUSTIN  
MOTION  
Motion to Reconsider

37 11/01/2016 SJAUSTIN  
ORDER  
Order to Remand to 64a District Court

38 11/07/2016 SJAUSTIN  
TRANSCRIPT PREPARED/FILED  
re: oral argument

39 11/07/2016 SJAUSTIN  
PROOF OF SERVICE FILED  
re: notice of oral argument

40 01/26/2017 SL  
TRANSCRIPT PREPARED/FILED  
Evidentiary Hearing on 12/19/2016

41 02/07/2017 ALG  
PROOF OF SERVICE FILED  
NOTICE OF HEARING

42 02/07/2017 ALG  
NOTICE OF HEARING  
NOTICE OF REHEARING  
SET NEXT DATE: HRG 02/22/2017 1:00 PM HOORT COURTROOM: 1

43 02/22/2017 JC  
REOPEN CASE

44 02/22/2017 D 001 JC  
REMOVE DISPOSITION

45 02/22/2017 JC  
REMAND ORDER  
DISP: REMAND  
Order

RECEIVED by MSC 5/29/2020 2:01:39 PM

Caseload Dsp: TR

Crt: C 08 34 Jur: HOORT  
Case: 2015 31675 AR

Ref:  
STATE OF MICHIGAN V OWEN

CLOSE P

46 02/24/2017 JC  
Rt side of file and 10 transcripts sent to District Court for remand

48 03/15/2017 JC  
ADD TO FILE  
Application for Leave to Appeal; Certificate of Mailing; Interlocutory  
Application for Leave to Appeal Oral Argument Requested

47 03/17/2017 JC  
REPORTER/RECORDER CERTIFICATE OF ORDERING OF TRANSCRIPT ON APPEAL

49 04/18/2017 MT  
TRANSCRIPT PREPARED/FILED  
RE; CONTINAUTION OF APPEAL

50 04/18/2017 CLCASH  
NOTICE OF FILING OF TRANSCRIPT AND AFFIDAVIT OF MAILING

51 04/18/2017 CLCASH  
REPORTER/RECORDER CERTIFICATE OF ORDERING OF TRANSCRIPT ON APPEAL

52 05/22/2017 SB  
ORDER  
application for leave to appeal is denied

53 05/22/2017 SB  
ORDER  
application for leave to appeal is denied

54 07/07/2017 SL  
File Appealed back to Circuit Court today

55 07/07/2017 SL  
APPEAL FILED  
Application for Leave to Appeal; POS;

56 07/07/2017 SL  
ADD TO FILE  
Application for Leave to Appeal Oral Argument Requested; Exhibits  
not scanned

57 07/12/2017 JC  
REPORTER/RECORDER CERTIFICATE OF ORDERING OF TRANSCRIPT ON APPEAL

58 07/19/2017 P 001 ALG  
ANSWER FILED  
THE PEOPLE'S ANSWER TO DEFENDANT-APPELLANT'S APPLICATION FOR LEAVE TO  
APPEAL

59 07/19/2017 JC  
TRANSCRIPT PREPARED/FILED  
re: Plea and Sentence

60 07/24/2017 CLCASH  
ADD TO FILE  
Notice of Right to Appellate Review and Request for Appointment of  
Attorney

61 07/24/2017 JC  
ORDER  
Order - Leave to Appeal DENIED; Proof of Service

62 08/14/2017 SB  
APPLICATION FOR LEAVE TO APPEAL ;POS

63 02/01/2018 JC  
ORDER  
Court of Appeals Order DENIED

64 03/15/2018 D 001 CLCASH  
PROOF OF SERVICE FILED  
Proof of Service; Notice of Filing

RECEIVED by MSC 5/29/2020 2:01:39 PM

SSCHMIDT UCCVPFK

Ionia County Court  
REGISTER OF ACTIONS

Rel1904  
8/02/19 15:51:52

Pg: 5

Caseload Dsp: TR

Crt: C 08 34 Jur: HOORT  
Case: 2015 31675 AR

Ref:  
STATE OF MICHIGAN V OWEN

CLOSE P

65 04/18/2018

LB

File Mailed to Michigan Supreme Court Records DEPT

66 04/23/2018

DLS

ADD TO FILE

Certified Mail Receipt

67 07/24/2019

SL

ORDER

Court of Appeals Order

\*\*\*\* END OF SUMMARY \*\*\*\*

\*\*\* END OF REPORT \*\*\*

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Court of Appeals Register of Actions

# Case Search

Case Docket Number Search Results - 339668

## Appellate Docket Sheet

**COA Case Number: 339668**

**MSC Case Number: 157380**

PEOPLE OF MI V ANTHONY MICHAEL OWEN

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1	PEOPLE OF MI Oral Argument: Y Timely: Y	PL-AE	PRS	(82919) <b>NEWBURY MOLLY</b>
2	OWEN ANTHONY MICHAEL Oral Argument: Y Timely: Y	DF-AT	RET	(75394) <b>STERNISHA EDWARD J</b>

---

**COA Status:** Case Concluded; File Open      **MSC Status:** Closed

08/11/2017    1 App for Leave to Appeal - Criminal  
 Proof of Service Date: 08/11/2017  
 Register of Actions: Y  
 Answer Due: 09/01/2017  
 Attorney: 75394 - STERNISHA EDWARD J

07/24/2017    2 Order Appealed From  
 From: IONIA CO CIRCUIT COURT  
 Case Number: 2015-031675-AR  
 Trial Court Judge: 40465 SYKES ROBERT S JR  
 Nature of Case:  
     District Court Appeal

08/11/2017    3 Transcript Filed By Party  
 Date: 08/11/2017  
 Filed By Attorney: 75394 - STERNISHA EDWARD J  
 Hearings:  
     10/21/2015 mot suppress  
     11/24/2015 motn cont'd  
     02/08/2016 evidentiary hrng  
     05/11/2016 mot suppress  
     10/20/2016 oral argument  
     12/19/2016 evidentiary hrng  
     02/22/2017 appeal cont'd  
     06/20/2017 plea & sentence

08/11/2017    25 Notice Of Filing Transcript  
 Date: 08/11/2017  
 Hearings:  
     10/21/2015 mot suppress  
     11/24/2015 motn cont'd  
     02/08/2016 evidentiary hrng  
     05/11/2016 mot suppress  
     10/20/2016 oral argument  
     12/19/2016 evidentiary hrng  
     02/22/2017 appeal cont'd  
     06/20/2017 plea & sentence

RECEIVED by MSC 5/29/2020 2:01:39 PM

08/22/2017 4 Answer - Application  
 Proof of Service Date: 08/22/2017  
 Event No: 1 App for Leave to Appeal - Criminal  
 For Party: 1 PEOPLE OF MI PL-AE  
 Filed By Attorney: 79246 - DREHER ADAM M

08/28/2017 5 Proof of Service - Generic  
 Date: 08/22/2017  
 For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 79246 - DREHER ADAM M  
 Comments: service of answer by first class mail & hand delivery

01/23/2018 8 Submitted on Motion Docket  
 Event: 1 App for Leave to Appeal - Criminal  
 District: G  
 Item #: 4

01/30/2018 9 Order: Application - Deny  
 View document in PDF format  
 Event: 1 App for Leave to Appeal - Criminal  
 Panel: WBM,JEM,JMB  
 Attorney: 75394 - STERNISHA EDWARD J

03/13/2018 10 SCt: Application for Leave to SCt  
 Supreme Court No: 157380  
 Answer Due: 04/10/2018  
 Fee: Paid  
 Check No: 54721  
 For Party: 2  
 Attorney: 75394 - STERNISHA EDWARD J

04/11/2018 11 Supreme Court - File Sent To  
 File Location: Z  
 Comments: SC #157380

04/13/2018 12 SCt: COA File - Received

04/13/2018 13 SCt: Trial Court Record Received  
 2 tr; 2 files

09/12/2018 16 SCt Order: Remand as Leave Granted  
 View document in PDF format

09/17/2018 18 Record Filed  
 File Location:  
 Comments: lcf;2 tr--SC Remand

09/17/2018 19 Supreme Court - File Ret`d By - Re-Open as on Leave Granted  
 File Location:

09/18/2018 21 Correspondence Sent  
 For Party: 2 OWEN ANTHONY MICHAEL DF-AT  
 Attorney: 75394 - STERNISHA EDWARD J  
 Comments: Letter advising COA file reopened per Sup Ct's 9/12/18 remand order - AT bf due 10/10/18

10/04/2018 26 Brief: Appellant  
 Proof of Service Date: 10/04/2018  
 Oral Argument Requested: Y  
 Timely Filed: Y  
 Filed By Attorney: 75394 - STERNISHA EDWARD J  
 For Party: 2 OWEN ANTHONY MICHAEL DF-AT

10/26/2018 27 Noticed  
 Record: FILED

Mail Date: 10/29/2018

10/31/2018 29 Pleadings Returned  
 Date: 10/26/2018  
 For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 82459 - EBERLE DAVID M  
 Comments: Return stip ext time--no provision in ct rules; may file mot ext time

11/05/2018 32 Correspondence Received  
 Date: 11/05/2018  
 For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 82459 - EBERLE DAVID M  
 Comments: Request to have interlocutory flag re-evaluated & reconsider AE's stip ext time

11/05/2018 33 Telephone Contact  
 For Party: 2 OWEN ANTHONY MICHAEL DF-AT  
 Attorney: 75394 - STERNISHA EDWARD J  
 Comments: advised atty pgs 15 & 17 missing from AT bf - to file five copies tomorrow 11/6

11/06/2018 34 Other  
 For Party: 2 OWEN ANTHONY MICHAEL DF-AT  
 Attorney: 75394 - STERNISHA EDWARD J  
 Comments: pages 15 & 17 to AT brief

11/06/2018 35 Correspondence Sent  
 Comments: letter advising interlocutory flag added in error & has been removed

11/08/2018 37 Stips: Extend Time - AE Brief  
 Extend Until: 12/06/2018  
 Filed By Attorney: 82459 - EBERLE DAVID M  
 For Party: 1 PEOPLE OF MI PL-AE

11/15/2018 38 Correspondence Received  
 Date: 11/12/2018  
 For Party: 2 OWEN ANTHONY MICHAEL DF-AT  
 Attorney: 75394 - STERNISHA EDWARD J  
 Comments: Atty's notice of change of address

12/06/2018 40 Brief: Appellee  
 Proof of Service Date: 12/06/2018  
 Oral Argument Requested: Y  
 Timely Filed: Y  
 Filed By Attorney: 82459 - EBERLE DAVID M  
 For Party: 1 PEOPLE OF MI PL-AE

12/07/2018 41 Defective Filing Letter  
 Event: 40  
 Defect:  
 Proof of Service - Cured

12/10/2018 42 Proof of Service - Generic  
 Date: 12/06/2018  
 For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 82459 - EBERLE DAVID M  
 Comments: for AE brief; defect in event #40 not yet cured

12/11/2018 43 Defective Filing Letter  
 Event: 42  
 Defect:  
 Other - Cured

12/17/2018 44 Proof of Service - Generic  
 Date: 12/06/2018

For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 82459 - EBERLE DAVID M  
 Comments: for AE brief; curing defects in events #40 & #42

12/18/2018 45 Defect Cured

Event: 40  
 P/S Date: 12/06/2018  
 Defect:  
 Proof of Service - Cured

12/18/2018 46 Defect Cured

Event: 42  
 P/S Date: 12/06/2018  
 Defect:  
 Other - Cured

07/05/2019 52 Telephone Contact

For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 1134 - IONIA COUNTY PROSECUTOR  
 Comments: David Eberle no longer w/PRS office - another prosecutor to argue - advised to file appearance

07/05/2019 53 Case Call Update For Panel

Comments: Ionia Prosecutor to file appearance for specific atty on o/a date (7/9)

07/09/2019 51 Submitted on Case Call

District: G  
 Item #: 2  
 Panel: DHS,SLB,DBS

07/09/2019 54 Appearance - Appellee

Date: 07/09/2019  
 For Party: 1 PEOPLE OF MI PL-AE  
 Attorney: 82919 - NEWBURY MOLLY

07/09/2019 55 Oral Argument Audio

Listen to audio in MP3 format

07/23/2019 60 Opinion - Per Curiam - Unpublished

View document in PDF format  
 Pages: 7  
 Panel: DHS,SLB,DBS  
 Result: Reversed and Remanded

Case Listing Complete

Transcript from Evidentiary Hearing (10/25/2015) Pages 5-17

RECEIVED by MSC 5/29/2020 2:01:39 PM

1 record please?

2 A Derrick Raymond Madsen D-E-R-R-I-C-K R-A-Y-M-O-N-D M-A-D-  
3 S-E-N.

4 Q S-E-N?

5 A Correct.

6 Q Okay, thank you, just wanted to make sure I heard you  
7 correctly. And um--you're in uniform, so I'm gonna assume  
8 you're a deputy with the--is that true?

9 A Correct.

10 Q Okay, could you tell us what uh--where you work?

11 A I work for the Ionia County Sheriff's Department as a full  
12 time road deputy.

13 Q Okay and how long have you been in that position?

14 A I've been with deputy--with Ionia County since May, of  
15 2015.

16 Q Okay, for a few months now then; correct?

17 A Correct.

18 Q Okay and have you testified in Court before?

19 A I've not.

20 Q Okay, what I'm going to do is I'm going to ask you some  
21 questions, and I'm gonna ask--I'm simply going to need a  
22 yes or no or I don't know answer. If I feel that I need  
23 more of that, I will let you know. Does that seem fair  
24 enough?

25 A Correct.

1 Q Yes?

2 A Yes.

3 Q Okay, the Prosecutor will also have an opportunity to ask  
4 you questions, and then if the Judge has some questions  
5 for you, the Judge will ask you questions. Fair enough?

6 A Fair enough.

7 Q Okay, thank you. Were you working as a road patrol  
8 officer on September 5<sup>th</sup> of 2015?

9 A I was.

10 Q Okay, were you--did you--as part of your job as a road  
11 patrol officer, would you agree that you are sent to calls  
12 by dispatch at times?

13 A Yes.

14 Q And other times you initiate your own calls if you will?

15 A Yes.

16 Q So just a traffic stop; correct?

17 A Correct.

18 Q Okay and when you do that, if it's a--I guess what I'm  
19 asking is are you required, if there's an incident such as  
20 an arrest, to write a report based on what happened?

21 A In that situation, yes.

22 Q So when you write a report, it's important to be accurate;  
23 correct?

24 A Correct.

25 Q And it's important to be--to put information in there

1 that's important to the case; correct?

2 A Correct.

3 Q Okay and you already stated you're working on September  
4 5<sup>th</sup>, did you have an opportunity that evening to come  
5 across the defendant, my client, Mr. Owen?

6 A Yes.

7 Q Did that turn into an arrest?

8 A Yes.

9 Q And did you write a report on that?

10 A Yes.

11 Q And was that report complete and honest?

12 A Yes.

13 Q Okay, do you have a copy of your report with you today?

14 A I do not.

15 Q If I provided you a copy for your review, because I'm  
16 gonna ask you some yes or no questions, would it help?

17 A It would.

18 MR. STERNISHA: Would the Prosecutor have any  
19 objection to that?

20 MR. DREHER: Just as long as I see the report  
21 first and make sure it's not marked or anything.

22 MR. STERNISHA: Well, there are some highlights.

23 MR. DREHER: Oh, okay. Yeah, that's all right.

24 MR. STERNISHA: Your Honor, may I approach the  
25 witness?

1 THE COURT: You may.

2 MR. STERNISHA: Thank you.

3 BY MR. STERNISHA:

4 Q Deputy, aside from the things that I highlighted, does  
5 that appear to be the report that you had submitted to  
6 sheriff's department for the arrest of Mr. Owen?

7 A It does.

8 Q Does it appear, other than the highlighted marks, that  
9 anything has been altered or--other than what you would've  
10 put in there?

11 A Would you like me to read the entire report?

12 Q No, I would not. I'm just asking you if you believe that  
13 it's your report?

14 A Yes, it is.

15 Q Okay, did you write in that report the following: on  
16 September 5, 2015, Deputy Brinks and I stopped the vehicle  
17 for speeding?

18 A I did.

19 Q Did you further write that Deputy Brinks and I saw a  
20 pickup--saw a truck doing 43 miles per hour in a 25 mile  
21 per hour zone?

22 A I did.

23 Q A short distance below that in the date, time venue  
24 section, did you write the incident occurred on September  
25 5, 2015, at approximately 21:13 hours on Parsonage Road

1 near Glenmoore Drive, Boston Township, County of Ionia and  
2 State of Michigan?

3 A Correct.

4 Q And is 21:13 hours 9:13 p.m.?

5 A Yes, it is.

6 Q Did you further write, under a section titled contact with  
7 Mr. Owen: I advised I was Deputy Madsen with the Ionia  
8 County Sheriff's Department and I was stopping Mr. Owen  
9 for speeding?

10 A Yes.

11 Q In the next paragraph down, did you state--did you write  
12 Mr. Owen was asked if he had been drinking while he was  
13 driving his truck that afternoon?

14 A I did.

15 Q Did you write he state he had never drank while driving;  
16 only having a beer earlier in the afternoon?

17 A Yes.

18 Q Did you write Mr. Owen was--stated he was on his way to  
19 his friend's house and had just left his residence?

20 A I did.

21 Q And further, did you state--did you write Mr. Owen was  
22 asked if he felt like he was intoxicated or could feel the  
23 effects of alcohol?

24 A I did.

25 Q Mr. Owen stated he did not feel the effects of alcohol; is

- 1           that what you wrote?
- 2   A        I did.
- 3   Q        Okay. Deputy Madsen, was Mr. Owen traveling southbound on  
4           Parsonage when you--when you and your partner got him on  
5           radar, going 43 miles per hour?
- 6   A        I need a map to take a look, just to verify my course.
- 7   Q        Would it help to know that M-21 runs east and west, would  
8           you agree with me on that?
- 9   A        Yes. Then he was traveling south.
- 10  Q        He'd be traveling south. Was there any speed limit sign  
11           on Parsonage Road for vehicles traveling south?
- 12  A        Traveling southbound? No.
- 13  Q        Okay, was there--and did you--did you see him on any other  
14           street that evening?
- 15  A        I saw him on Summit Street and then I saw him on Parsonage  
16           Street.
- 17  Q        Okay, was there any speed limit sign for either direction  
18           of travel on Summit Street, in the area that you saw him  
19           driving?
- 20  A        I'm not aware.
- 21  Q        Not that you're aware? Okay. Deputy Madsen, do you  
22           believe that it would--that it should be reasonable for an  
23           officer enforcing a speed limit, to know the speed limit?
- 24  A        Yes.
- 25  Q        When you--when you had an opportunity to talk to Mr. Owen

1 and look at him--look at his face, did you noted--notice  
2 anything unusual about him?

3 A He has a eye that he said was blind.

4 Q He said his was blind--he's blind in one eye?

5 A Correct.

6 Q If you looked at him today, would you see the same thing?

7 A From this distance, no.

8 Q Was there any reason that night for you not to believe  
9 that he was blind in one eye?

10 A No.

11 Q Well, let me ask you this: under the next section of your  
12 report where it's titled standard field sobriety test, did  
13 you write I asked Mr. Owen if he had any eye issues, and  
14 he stated he was completely blind in his left eye?

15 MR. DREHER: Objection, Your Honor, relevance?

16 THE COURT: Counsel?

17 MR. STERNISHA: Your Honor, this is--the motion  
18 is to suppress and dismiss based on the stop and the field  
19 sobriety test, as I put in the motion. This has to do  
20 with the field sobriety test and the reasonable cause or  
21 probable cause to arrest Mr. Owen.

22 THE COURT: I haven't seen a motion where it's  
23 contesting the field sobriety test.

24 MR. DREHER: Your Honor, I'm under the  
25 impression that defendant was merely challenging the stop.

1 THE COURT: Based upon the speed limit issue.

2 MR. DREHER: Correct.

3 MR. STERNISHA: On section four--number four of  
4 the motion--during the stop the deputy required Mr. Owen  
5 to submit to a variety of so called field sobriety tests  
6 and a preliminary breath test, and the Prosecutor admitted  
7 that section in his response.

8 THE COURT: Then he did go through the tests?  
9 So what's this got to do with the speed limit? C'mon, I  
10 got a busy docket here. What's it got to do with the--

11 MR. STERNISHA: Your Honor, it has nothing to do  
12 with the speed limit, but--

13 THE COURT: Then let's stick to the speed limit.

14 MR. STERNISHA: Very well, Your Honor. My only  
15 concern is I don't want to be precluded from raising this  
16 issue later. But if we can stick to the speed limit--

17 THE COURT: Yeah, that's the motion that I'm  
18 hearing.

19 MR. STERNISHA: Very well.

20 THE COURT: All right.

21 MR. STERNISHA: Your Honor, I believe that's all  
22 I have for this witness at this time.

23 THE COURT: Counsel?

24 MR. DREHER: Yes, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. DREHER:

2 Q Deputy Madsen, what is--what is the speed limit on  
3 Parsonage Road?

4 A 25 miles per hour.

5 Q Thank you.

6 MR. DREHER: No further questions, Your Honor.

7 THE COURT: Was the defendant in the area that  
8 was 25?

9 THE WITNESS: (No verbal response).

10 THE COURT: Where did you observe him speeding?

11 THE WITNESS: I was coming down Summit Street,  
12 Your Honor and the subject was at the stop sign on Summit  
13 and Parsonage. He took a left onto--

14 THE COURT: Can you draw a diagram up on the  
15 grease board for me?

16 THE WITNESS: Okay.

17 THE COURT: I still--I'm not seeing it.

18 MR. DREHER: Your Honor, I'm not sure if the  
19 Court will allow this. I did attach a map with our  
20 response motion. I believe it's marked--

21 THE COURT: Well, you didn't introduce it though  
22 and I haven't seen if counsel objects or disagrees or  
23 cross-examines. I just want facts right now.

24 MR. STERNISHA: Your Honor, I don't have any  
25 objections to the deputy drawing on the board or

1           testifying to his--how he appeared it. He already  
2           testified he understands that Parsonage was a north and  
3           south street. So I think it'd be fairly easy to--

4                    THE COURT: Well, I want a visual. If I can't  
5           get a map, I'm gonna have him draw one on the board. So  
6           what do you guys want to do? I want a visual.

7                    MR. STERNISHA: I--can I--I can redirect?

8                    THE COURT: He's my witness now.

9                    MR. STERNISHA: Okay.

10                   THE COURT: Do you object to a map or do you  
11           want him to draw it on the board?

12                   MR. STERNISHA: I would rather--I object to the  
13           map, Your Honor. I--

14                   THE COURT: Deputy, could you please step up to  
15           the grease board and draw a map--

16                   THE WITNESS: Yes, Your Honor.

17                   THE COURT: --an visually show me what happened.

18                   THE WITNESS: All right, Your Honor, the subject  
19           is red, turning onto Summit Street. I'm green, I  
20           followed--immediately upon getting onto Summit Street I  
21           saw the subject stopped at a four way stop, right here  
22           (indicating). The subject used his blinker, turned onto  
23           Parsonage. I immediately stopped--turned left as well.  
24           Upon stopped--upon getting behind the vehicle, the vehicle  
25           was in front of me, Deputy Brinks initiated our radar

1 system, which showed him doing 43 miles per hour. We were  
2 still on Parsonage Road. We continued to follow the  
3 driver, just to see how his driving was and we ended up  
4 making the stop, once I got onto Parsonage up here  
5 (indicating) a sign of the village limits. But  
6 everything--our visual of his speed took place in the  
7 Village of Saranac, sir.

8 THE COURT: So what's the speed limit right  
9 there?

10 THE WITNESS: 25 miles per hour.

11 THE COURT: Is it posted?

12 THE WITNESS: It is posted right here  
13 (indicating) in a drive--in a private residence, sir.

14 THE COURT: Counsel--you may be seated.  
15 Counsel, I'll let you both ask more questions.

16 MR. STERNISHA: Thank you, Your Honor.

17 THE COURT: Mr. Sternisha, you can go first.

18 MR. STERNISHA: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. STERNISHA:

21 Q Just for the record the Parsonage that you drew up there  
22 runs north and south; correct?

23 A Correct.

24 Q Okay and because you--you mentioned this--I want to bring  
25 you back to your report. Did you, under traffic stop, did

- 1 write--about the second line, last word starting--Deputy  
2 Brinks and I turned onto Bridge Street and were unable to  
3 locate the vehicle?
- 4 A I did.
- 5 Q And at that, you were looking for an unknown vehicle;  
6 correct?
- 7 A I believe Deputy Brinks knew it was a pickup truck. I did  
8 not see that at that time, no. I was driving. He was in  
9 the passenger seat.
- 10 Q Well, then let me--let me um--let me further ask then--you  
11 were unable to locate the vehicle. Is it not on Summit at  
12 Bridge a very wide turn, and you cannot see Parsonage from  
13 Bridge Street?
- 14 A Correct.
- 15 Q It's impossible to see directly down there; correct?
- 16 A As far as impossible, I'm not sure it's impossible, but I  
17 would say it's very difficult to.
- 18 Q And so what you testified a minute ago that you saw him  
19 from Bridge Street at Parsonage, that couldn't have  
20 happened, could it?
- 21 A I'm sorry, can you restate that?
- 22 Q You could not have seen him from Bridge Street all the way  
23 up to Parsonage, because of the wide bend in the road?
- 24 A Correct.
- 25 Q Okay, so you saw him only--you saw this vehicle only at

1 the intersection of Summit and Parsonage, making a left  
2 turn onto southbound Parsonage; correct?

3 A Correct.

4 Q And the speed limit sign that you described does not face  
5 for southbound traffic, does it?

6 A It does not.

7 Q So there is absolutely no speed limit signs facing for  
8 southbound traffic?

9 A Correct.

10 Q And if you continue on Parsonage, as you stated you did,  
11 there's no speed limit signs there either, is there, where  
12 you stopped him?

13 A No.

14 Q There's still no speed limit signs; correct?

15 A Correct.

16 Q Okay, in that area, would you agree with me, is 55 miles  
17 an hour?

18 A I would.

19 Q Is there anywhere, during the area where you saw Mr. Owen  
20 driving, any indication to the average motorist what the  
21 speed limit is, any speed limit sign?

22 A It's within the village limits and that's very  
23 residential, sir.

24 Q That's not what I asked you. I'll be clearer. Is there  
25 anywhere, any distinction, is there any sign, any traffic

Transcript from Evidentiary Hearing (2/8/2016) Pages 5-8

1 works?

2 A Correct.

3 Q Uh, do you have any duties as it relates to speed limit  
4 signage within the village?

5 A Um, not really, just replacing as needed.

6 Q Are you aware if any of the signs have been replaced since  
7 you've started your employment there?

8 A A couple curb signs that people ran over.

9 Q Are you familiar with where these speed limit signs are  
10 currently, within the village?

11 A Yes.

12 MR. DREHER: Your Honor, I'd ask that this be  
13 marked as People's proposed exhibit one. I'm showing  
14 opposing counsel the document, but I'm now showing the  
15 witness the same.

16 (PX1 marked at 10:58 a.m.)

17 BY MR. DREHER:

18 Q What have I just handed you?

19 A It's a village map.

20 Q And are you familiar with this map?

21 A Yes.

22 Q How so?

23 A Um, this shows all the hydrants, all the underground  
24 piping, that sort of thing, all the streets.

25 Q Are there any markings on--on that map, as well?

1 A Yes.

2 Q And what are those markings?

3 A Uh, speed limit signs in my handwriting.

4 Q And did--do these--err excuse me--does this map fairly and  
5 accurately depict where the speed limit signs are,  
6 throughout the Village of Saranac?

7 A Yes.

8 MR. DREHER: Your Honor, the People would move  
9 for the admission of People's proposed exhibit one.

10 THE COURT: Any objection?

11 MR. STERNISHA: No, Your Honor.

12 THE COURT: One's received.

13 (PX1 received at 10:59 a.m.)

14 BY MR. DREHER:

15 Q Now Mr. Simmons, approximately how many speed limit signs  
16 are throughout the Village of Saranac?

17 A Oh I'd say approximately 25.

18 Q And are they--do they all reference the same speed limit?

19 A No.

20 Q What speed limits--what--what various speed limits do they  
21 represent?

22 A Uh, 25 and 40 miles an hour.

23 Q So are--if I could draw your attention to Parsonage Road;  
24 are there any speed limit signs on Parsonage Road itself?

25 A Yes.

1 Q What is that speed limit sign?

2 A There's a 25 coming in to town and a 20 curb ahead going  
3 out of town.

4 Q So in other words southbound would have this curb ahead  
5 speed limit sign?

6 A Correct.

7 Q And you indicated that was a 20--20 mile an hour?

8 A 20 mile an hour.

9 Q And those--that's a recommended speed; correct?

10 A I do not know that.

11 Q Okay.

12 MR. DREHER: Your Honor, permission to tender?

13 THE COURT: Sure.

14 BY MR. DREHER:

15 Q Uh, Mr. Simmons, are you aware of any entrance point into  
16 the Village of Saranac that would not be 25 miles an hour?

17 A Uh, Bridge Street.

18 Q And what is that?

19 A That's 40.

20 Q Is it 40 all the way into town?

21 A Negative. It's 40 to the bridge.

22 Q And what happens after the bridge?

23 A It turns to 25.

24 Q Are you familiar with any other location that's not 25?

25 A No, sir, I'm not.

1 MR. DREHER: Your Honor, I have no further  
2 questions.

3 THE COURT: Mr. Sternisha?

4 MR. STERNISHA: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. STERNISHA:

7 Q Morning, Mr. Simmons.

8 A Morning.

9 Q You've been a DPW Director for two years?

10 A Yes. Just over two years.

11 Q And did you work for Saranac before that?

12 A Yes, sir.

13 Q In what capacity?

14 A Um, just as a worker.

15 Q As a--what kinda worker?

16 A Uh, plowing snow, trimming trees, that sort of thing.

17 Q How long did you do that?

18 A I believe it was just under four years before that.

19 Q Okay, so you've been with the village for about six years?

20 A Correct.

21 Q Okay, um, do um--does the Village of Saranac have any of  
22 their own ordinances regarding speed limits?

23 A I do not know that, sir.

24 Q Does the Village of Saranac have their own website?

25 A Yes.

Transcript from Evidentiary Hearing (2/8/2016) Pages 10-11

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1 called as a witness at 11:02 a.m., testified as follows:

2 DIRECT EXAMINATION

3 BY MR. DREHER:

4 Q Would you please introduce yourself and spell your name  
5 for the Court?

6 A My name is Dennis Bowen, B-O-W-E-N.

7 Q Are you currently employed?

8 A I am retired at this time.

9 Q And where did you retire from?

10 A The Village of Saranac.

11 Q What position did you have when you worked for the Village  
12 of Saranac?

13 A I was director of public works.

14 Q And what does that entail?

15 A Taking care of the water, sewers, streets, parks,  
16 buildings.

17 Q Were any of your duties specifically to maintain speed  
18 limit signs throughout?

19 A It was, yes.

20 Q And what did you do for the speed limit signs?

21 A The main job is uh, if there were any issues or concerns  
22 regarding--and uh, when I started to work for the village  
23 in 1982, they were in the middle of a program grant from  
24 the Department of Transportation, to update traffic  
25 control signs, and at that time, we did replace all the

1 current speed limit signs.

2 Q Are you familiar--err excuse me--are you aware of what the  
3 signs were before?

4 A The signs--we just replaced the old signs and they were 25  
5 mile an hour signs at that time.

6 Q So it was 25 mile an hour before and what are they  
7 currently--err--

8 A 25--majority of 25.

9 Q You said this happened in 1982?

10 A 1982, yes, sir.

11 Q Where are you from?

12 A Village of Saranac.

13 Q Have you lived there your whole life?

14 A I have, yes.

15 Q And how old are you?

16 A 66.

17 Q Do you remember a time when the--these speed limit signs  
18 were not up in the Village of Saranac?

19 A I do not.

20 MR. DREHER: Your Honor, I have no further  
21 questions.

22 THE COURT: Cross-exam?

23 MR. STERNISHA: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. STERNISHA:



1 village board at all?

2 A I was not a voting member of the board.

3 Q You--just an employee?

4 A Employee--I did take part on some of the committees.

5 Q Okay and you said you began working there around 1982, and  
6 there were speed limit signs there and over the years, all  
7 you did was replace them with the same limit that was  
8 there; is that correct?

9 A Correct. There were some areas where we were asked to add  
10 speed limit signs and we did add some here and there, on  
11 major streets.

12 Q Okay, um, you were in the Court earlier; correct? You  
13 been here since we began today?

14 A Since we been today? Yes.

15 Q Yes and you heard testimony that on Bridge Street, coming  
16 into Saranac from M-21, part of the village is 40 miles an  
17 hour?

18 A Correct.

19 Q So with that being said, the entire village isn't 25, is  
20 it?

21 A It is not.

22 Q Okay.

23 MR. STERNISHA: Your Honor, I just presented the  
24 Prosecutor with a document that I would like to show the  
25 witness, if I may?



1 water and sewer billing, property taxes, day in and day  
2 out public.

3 Q Uh, when--when--with maintaining the records, are those  
4 specifically only to the financial records?

5 A No.

6 Q How far back does the Village of Saranac records go to?

7 A Um, boy, specifically, I don't know, but I would say  
8 probably the 1980's?

9 Q Now did you have an opportunity to look through those  
10 records, in an attempt to find when the village first  
11 established these speed limits throughout the village?

12 A I did.

13 Q And were you able to find any records?

14 A I was not.

15 Q And you said these records go back to 1980?

16 A Some records do. I don't specifically know which records  
17 go back that far--which records.

18 Q And so in other words there's absolutely nothing within  
19 the villages records, indicating when this was first  
20 established?

21 A Correct.

22 MR. DREHER: Your Honor, I have no further  
23 questions.

24 THE COURT: Counsel?

25 MR. STERNISHA: Your Honor, I don't have any

Transcript from Evidentiary Hearing (2/8/2016) Page 20-21

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- 1 Q Did you do that?
- 2 A I did.
- 3 Q And what did you come up with?
- 4 A We do not have any records.
- 5 Q There's no records for--
- 6 A To my knowledge.
- 7 Q Okay, you were unable to locate any records?
- 8 A That is correct.
- 9 Q Okay and earlier there was testimony that there is--I  
10 believe the only speed limit type sign for southbound  
11 traffic is a 20 mile cautionary sign. Would you agree  
12 with that?
- 13 A A yellow advisory speed? Yes.
- 14 Q Okay and that's not an actual speed limit. That's an  
15 advisory speed advising someone of uh--I think at that  
16 location occur; correct?
- 17 A That is correct.
- 18 Q Okay and other than that sign, there's no other signs  
19 there?
- 20 A Southbound? Yeah, that is correct.
- 21 Q Okay, at any time in the past, has anyone from the Village  
22 of Saranac asked the road commission for help in setting  
23 speed limits there?
- 24 A Not to my knowledge.
- 25 Q So if I told you that the law that we're dealing with,

1 Public Act 85 of 2006, I believe I gave you a copy of that  
2 with a subpoena. Do you remember that?

3 A Yes, sir.

4 Q Okay and in that I highlighted a section that I'm  
5 referring to that said in setting the speed limits, the  
6 entities to be involved are the road commission, the state  
7 police and the township, or in this case, the village. Do  
8 you remember reading that?

9 A I do.

10 Q Had anything of that nature occurred, to your knowledge,  
11 with regard to Parsonage Road in Saranac?

12 A No.

13 Q Okay, thank you.

14 THE COURT: Cross.

15 CROSS-EXAMINATION

16 BY MR. DREHER:

17 Q Mr. Finch, you testified you have no records of any sort  
18 of speed limits within the Village of Saranac?

19 A That is correct.

20 Q Does the county ever maintain records for township or  
21 village roads?

22 A Not in the Village of Saranac, but some villages we do.

23 Q But have you ever maintained records at any point for the  
24 Village of Saranac?

25 A Not that I know of. Not for speed limit signs.



1 A Tonda Rich, T-O-N-D-A R-I-C-H.  
2 Q Good morning, Ms. Rich.  
3 A Good morning.  
4 Q Are you employed?  
5 A I am.  
6 Q In what capacity?  
7 A I am the Ionia County Clerk.  
8 Q And how long have you been a Ionia County Clerk?  
9 A Since March of 2004.  
10 Q You--that's an elected position; correct?  
11 A Correct.  
12 Q And you won in the last election?  
13 A I did.  
14 Q Even though I might've written a letter on behalf of  
15 someone else supporting them, you're not gonna hold that  
16 against me, are you?  
17 A I will not.  
18 Q Thank you, I just want to clear the air. Um, Ms. Rich, in  
19 your capacity as the Ionia County Clerk, you're  
20 responsible for the storage of documents throughout the--  
21 for the county; correct?  
22 A Correct.  
23 Q Court records, marriage records, death certificates,  
24 things like that?  
25 A Correct.

1 Q Okay and were you asked in a recent past to do an  
2 investigation in your office, to locate any records of  
3 speed limits on Parsonage Road in Saranac?

4 A Yes.

5 Q Who asked you to do that?

6 A You did.

7 Q Did anyone else?

8 A No.

9 Q Okay, um, did you do that investigation?

10 A I did.

11 Q And what were you able to locate?

12 A I was able to locate many traffic control orders from--  
13 dated way back to 1935. I looked through each and every  
14 traffic control order in my office. I did not find  
15 anything relating to Parsonage Road in Boston Township and  
16 or the Village of Saranac.

17 Q No--no records at all for speed limits there?

18 A No.

19 Q Certainly nothing since 2006?

20 A Nothing.

21 Q Thank you, so you have nothing to bring us today on that.

22 Um, Ms. Rich, um, as you were being called up to the  
23 witness stand, you handed me a map; is that correct?

24 A Correct.

25 MR. STERNISHA: And I'm gonna show this to the

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1       adopted the vehicle code as it is, Your Honor. So I--I  
2       think the only speed limit that the Court can come to for  
3       that section, until the village takes the proper steps to  
4       change it, is that the speed limit is and has been 55  
5       miles an hour.

6               THE COURT: Any other argument?

7               MR. DREHER: Yes, Your Honor. The only reason--  
8       err excuse me--the only way that the village would have to  
9       change the speed limit, is if they wanted to increase the  
10      speed limit or change it in some other way, unless the  
11      legislature actually did not actually change the speed  
12      limit. Which is what the People are arguing is that in  
13      2006, the legislature did not change the speed limit that  
14      was already established, because the Michigan Constitution  
15      provides that the legislature cannot do that. Instead, if  
16      the village were to establish a different speed limit,  
17      then they would have to go through the new process of  
18      asking Lieutenant Megge to do his studies, in determining  
19      the intersections on the road and things of that nature.  
20      But prior to that, it wasn't needed. The village adopted  
21      the prior law and that's precisely why the village speed  
22      limit at this point, is 25 miles an hour, thank you.

23              THE COURT: All right, thank you. This case is  
24      somewhat unusual. It gets stranger and stranger all the  
25      time. I recall it being unusual to begin with, when both

1 sides were here before. Now we've had the case remanded  
2 by Judge Hoort to take further testimony and have this  
3 Court make a determination, based upon the testimony as to  
4 what the speed limit is on Parsonage Road, in this  
5 location. We know that it's posted 25, going into town,  
6 not going out. And we wrangled around quite a bit the  
7 last time we were here about whether posting going in was  
8 enough to adequately mark the area. Well, the argument  
9 has shifted onto new ground now, new turf and that being  
10 what is the actual enforceable speed limit? The defense  
11 position supported by the Michigan State Police and that  
12 in it of itself makes this case somewhat of a man bites  
13 dog kind of case. Does that--when you go through the  
14 rational--go through the formula--for a lack of better  
15 words--you arrive at 55, based upon the law as it  
16 currently stands. The Prosecutor's position is is wait a  
17 minute, nope; the old law is still applied. The  
18 legislature meant to change things prospectively, as  
19 opposed to retroactively, which is an interesting argument  
20 in it of itself and creates yet another legal issue  
21 frankly, in the case. But that having been said, the  
22 Court is of the opinion, having listened to both sides,  
23 and looked at the law myself that this is a problem, and  
24 that it was not just prospective; that that was  
25 retroactive too. And even if it were to be just

1 prospective only, the village still has that problem of  
2 there being no records. So even if you were to say yeah,  
3 okay, all the old laws are still in effect. There's no  
4 record of what the old laws were and how they got there.  
5 That in it of itself is a huge problem, which I think  
6 undermines the Prosecutor's persuasiveness in that regard.  
7 So I find that the uniform traffic code applies here, and  
8 that by default, the speed limit is 55. The exhibits will  
9 be maintained and transmitted to the Circuit Court and the  
10 Circuit Court can take further proceedings from here.  
11 Anything else to talk about?

12 MR. DREHER: Nothing from the People.

13 MR. STERNISHA: Thank you.

14 THE COURT: You're welcome.

15 (At 12:07 p.m. - proceeding concluded)

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