

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v.

ANTHONY MICHAEL OWEN
Defendant-Appellee.

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

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COUNTER-STATEMENT OF QUESTION

When an officer fails to consider the Motor Vehicle Code at all; does not reflect a reasonable interpretation of the Motor Vehicle Code nor even a plausible understanding of the applicable law; and, under the Motor Vehicle Code, unposted roads are 55 miles per hour, does the officer have an articulable and reasonable belief for effectuating a traffic stop of a vehicle travelling below that limit?

Court of Appeals states, "No."

Defendant-Appellee states, "No."

Plaintiff-Appellant argues, "Yes."

COUNTER-STATEMENT OF FACTS

On September 5, 2015, Deputy Madsen was in the Village of Saranac when he saw Mr. Owen travel on Summit Street then turn left onto Parsonage Road. (Tr. 10/21/15, at 14). Neither road has signs indicating what the speed limit is. (Tr. 10/21/15, at 10 and 27). Radar indicated Mr. Owen was traveling 43 miles per hour on Parsonage Road, and Deputy Madsen initiated a traffic stop for speeding. (Tr. 10/21/15, at 14-15). Deputy Madsen stated he believed where he clocked Mr. Owen's vehicle the speed limit is 25 miles per hour (Tr. 10/21/15, at 15). But he also stated that further down Parsonage Road, where Mr. Owen came to a stop, there also are no speed limit signs and the speed limit there is 55 miles per hour (Tr. 10/21/15, at 17). Deputy Madsen had been an officer for four months. (Tr. 10/21/2015, at 5-6). Deputy Madsen stated that it would be reasonable for an officer enforcing the speed limit to know the speed limit. (Tr. 10/21/15, at 10). Even within an arm's reach of the Prosecutor's desk are free maps of Michigan that clearly state that unless otherwise posted, the speed limit is 55 miles per hour (Tr. 2/8/16, at 30).

Gary Megge is a Lieutenant with the Michigan State Police and has been employed by the state police almost twenty-three years. (Tr. 2/8/16, at 34-35). Lt. Megge investigated the speed limit on Parsonage Road in Saranac. (Tr. 2/8/16, at 38). His investigation, which included traveling to the scene of the traffic stop, revealed that the speed limit on Parsonage Road is 55 miles per hour (Tr. 2/8/16, at 39). He stated that if a speed limit was established based on Michigan Vehicle Code section 627 the speed limit would be 45 miles per hour but because there were no signs posted, it falls back to the general speed limit of 55 miles per hour (Tr. 2/8/16, at 41). He further stated that if he was using the area in question as an example while teaching new

trooper recruits, he would instruct them that the speed limit is 55 miles per hour. (Tr. 2/8/16, at 36). Shortly after PA85 went into effect in 2006, Lt. Megge's office produced documents to inform officers, courts, etc. about the changes so they could clearly understand the changes and adequately perform their duties. (Tr. 12/19/16, at 22-25). Lt. Megge's office produced a field update that was prepared for a listserv that goes to prosecutors, attorneys, public officials, police officers, and private individuals. (Tr. 12/19/16, at 21-23).

The Village of Saranac adopted the Michigan Motor Vehicle Code in 2004 (Tr. 12/19/16, at 6, 9). The people introduced a zoning map of the Village. (Village of Saranac Zoning Map, Ex. 0). On several roads entering the Village, there are signs posted indicating village-wide ordinances such as stopping for school bus loading and unloading and no parking on any street during certain times. (Tr. 10/21/15, at 24-25). There are no signs indicating a village-wide speed limit of 25 miles per hour, and at least part of the Village is posted 40 miles per hour (Tr. 10/21/15, at 24-26). However, at least some of the roads entering the Village do have 25 miles per hour signs posted. (Tr. 10/21/15, at 32- 34).

Although the law changed in 2006, the Village of Saranac has yet to comply with it by having a speed study conducted. (Tr. 12/19/16, at 14) Conducting a speed study is a simple process that could be completed in as little as three minutes to half a day. (Tr. 12/19/16, at 36) However, instead of conducting a speed study, the Village has acted in complete defiance to the law. Even after the district court, in this case, held that the speed limit on this section of Parsonage Road was 55 miles per hour, the Village erected a sign indicating that the speed limit was 25 miles per hour. (Tr. 12/19/16, at 40)

ARGUMENT

Because the officer never considered the Motor Vehicle Code at all; did not reflect a reasonable interpretation of the Motor Vehicle Code nor even a plausible understanding of the applicable law; and under the Motor Vehicle Code unposted roads are 55 miles per hour; the officer did not have an articulable and reasonable belief for effectuating a traffic stop on a vehicle traveling below 55 miles per hour where no sign was posted.

The law regarding the speed limit at issue here is undeniably clear and unambiguous that when a sign is not posted the speed limit is 55 miles per hour. Defendant was traveling 43 miles per hour; therefore, he was not violating the law. The Court in *Heien* did not support the proposition that an officer acts in an objectively reasonable manner by misinterpreting an unambiguous statute. *Heien v North Carolina*, 574 US 54; 135 S Ct 530; 190 L Ed 2d 475 (2014). Even if *Heien* did support such a position, the officer's unreasonable ignorance of the law was not equivalent to a reasonable mistake of law.

LAW

When a "trial court's ruling on a motion to suppress involves an interpretation of the law or the application of a constitutional standard to uncontested facts," this Court's standard of review is de novo. *People v Tanner*, 496 Mich. 199, 206; 853 N.W.2d 653 (2014).

Both the United States and the Michigan Constitutions guarantee citizens the right to be free of unreasonable search and seizures. US Const, Am IV; Mich Const 1963, art 1, §11. "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."

People v Williams, 236 Mich App 610, 612; 601 NW2d 138 (1999) (footnote omitted). In order for a stop to be constitutionally valid, the officer must have a particularized suspicion, based on objective observation, that the person stopped has been or is going to commit a criminal act.

People v Peebles, 216 Mich App 661, 664-65; 550 NW2d 589 (1996). To determine the

reasonableness of an officer's suspicion, each case must be looked at in light of the totality of the facts and circumstances and the officer's specific reasonable inferences he can draw from the facts based on his experience. *People v LoCicero (After Remand)*, 453 Mich 496, 501-02; 556 NW2d 498 (1996). An officer's reasonable mistaken belief of the law is enough to allow warrantless and suspicionless seizures of automobiles under the Fourth Amendment. *Heien*, 135 S Ct 530 (2014).

The Michigan Supreme Court has held that Article 1, § 11 of the Michigan Constitution, guarding against unreasonable searches and seizures, affords more Fourth Amendment protections than the United States Constitution. See, for example, *Sitz v Department of State Police*, 443 Mich 744; 506 NW2d 209 (1993) (where sobriety checkpoints were deemed to violate the Michigan Constitution despite the United States Supreme Court holding that they did not violate the U.S. Constitution).

The Michigan speed limit posting law, MCL 257.628(1), states:

(1) If the state transportation department and the department of state police jointly determine upon the basis of an engineering and traffic investigation that the speed of vehicular traffic on a state trunk line highway is greater or less than is reasonable or safe under the conditions found to exist at an intersection or other place or upon a part of the highway, the departments acting jointly may determine and declare a reasonable and safe maximum or minimum speed limit on that state trunk line highway or intersection that shall be effective at the times determined when **appropriate signs giving notice of the speed limit are erected** at the intersection or other place or part of the highway. **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". (Emphasis added)

THE OFFICER DID NOT MAKE A REASONABLE MISTAKE OF LAW BECAUSE THE LAW WAS UNAMBIGUOUS, HE DID NOT CONSIDER THE LAW, AND HE WAS UNREASONABLY IGNORANT OF THE LAW.

The mistake of law must be objectively reasonable and the subjective understanding of the individual officer should not be examined. *Heien* at 539. The officer in this case did not even bother considering the law. Despite this, Appellant asserts that it makes sense that the officer would believe the speed limit was 25 miles per hour because a sign way down on the other side of the road pointing the opposite direction indicates 25 miles per hour, and another sign further down the road indicates an advisory 20 miles per hour at a curve. Appellee makes this argument even though the deputy testified that he believed part of that very road was, in fact, 55 miles per hour. This argument is illogical because the law is very clear that unposted roads are 55 miles per hour and a sign facing the opposite direction a motorist is traveling cannot be said to apply to him or her.

While Appellant argues that traffic control devices facing motorists travelling one direction must automatically apply to motorists traveling the other, there is no law or logic to support this. A simple look at the middle of any roadway with a solid centerline for one direction and a split (hyphenated) centerline for the other tells us that Appellant's argument fails. Clearly, in this example, cars traveling one way may pass other traffic but cars traveling the other direction on the same roadway may not. Further, a motorist would not be able to observe the signs Appellant is referring to in the area of Parsonage Road where Appellee was traveling, and the officer's subjective, random, unsupported belief that the speed limit was 25 miles per hour was not reasonable. The court of appeals correctly held, the officer 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." *People of the State of Michigan v Anthony Michael Owen*, unpublished per curiam opinion of the Court of Appeals, issued July 23, 2019 (Docket No. 339668), p 6.

Because of Appellant's unwillingness to stipulate to the obvious fact that the speed limit was 55 miles per hour, months of wasted time and energy was expended on going through the court process to determine what was already clear. This is indicative of the process of our justice system when a party persists with illogical, unreasonable arguments, not that it was difficult to understand the law as Appellant asserts. Testimony from the arresting officer at the very first hearing indicated that he knew the speed limit was 55 miles per hour on an unposted street. He even admitted to knowing that this applied to Parsonage Road at a location further down. The officer also testified that he believed it would be reasonable to expect an officer to first know what the speed limit is before enforcing it. He, without relying on any law, ambiguous or otherwise, and without relying on any signs, believed the speed limit on part of the road was 25 miles per hour and further down was 55 miles per hour. Furthermore, because a law changed temporarily after the fact, does not tend to show that an officer's ignorance of the law is reasonable. Appellant fails to cite authority or rational reason for such a conclusion. This was not a mistake of fact nor a mistake of law. This was a rookie police officer applying his own distorted reasoning for conducting a traffic stop.

Appellant also relies on decisions from other jurisdictions that can easily be distinguished from this case. Appellant argues that in *City of Atwood v Pinalto*, 301 Kan 1008; 350 P3d 1048 (2015) the Kansas Supreme Court held that when a 20 miles per hour speed limit sign had been knocked down, the speed limit became 30 miles per hour. Because of that, the officer made a reasonable mistake of fact when he pulled-over the defendant going 28mph. That officer had been a lifelong resident of that city and believed the road to be 20 miles per hour (and it was) so he pulled a car over that was going 28 miles per hour. *Id.* at 1049. He did not know the speed limit sign had been knocked down. *Id.* at 1049. In our case, there never was a sign, thus

the deputy didn't even base his belief on any sign. He based his belief on a non-existent "residential zone." In *Atwood* the court did *not* consider whether the speed limit reverted to 30 miles per hour as Appellant claims (although the argument was made). They decided it was a mistake of fact alone. In the instant case, the speed limit didn't revert to the general speed limit. It *always was* the general speed limit because a sign never had been posted. In *Atwood*, the court held, "In this case, the officer's reliance on the false, but normally true, fact that a speed limit sign was in place was objectively reasonable." *Id.* at 1054. We do not have that in this case because there was never a sign posted.

Appellant argues that *Harrison v State of Mississippi*, 800 So 2d 1134 (Miss, 2001) is "quite similar" to this case but it is not. In *Harrison* the officers relied on a posted speed limit sign. The sign only applied when workers were present, but the sign was there for both the officers and motorists to see. The statute in *Harrison* was ambiguous. Again, in this case the statute is clear and no speed limit sign was posted.

Appellant argues that the "very similar" unpublished Oklahoma opinion of *United States v Blackburn* came to an opposite conclusion of the Court of Appeals in this matter. In *Blackburn*, a 45mph sign was improperly posted, but it *was posted*. That court held, "This was a mistake of fact, due to the posting of the 45 miles per hour speed limit on a standard speed limit sign. This belief was reasonable." *U.S. v. Blackburn*, Case No. 01-CR-86-H, 4 (N.D. Okla. Feb. 20, 2002). In the instant case, there was no sign posted at all.

Appellant cites *People v Simmons*, 316 Mich App 322, 326; 894 NW2d 86 (2016) to support the position that an officer needs nothing more than a reasonable belief that a motorist has committed a traffic violation. Appellant fails to understand, however, that in *Simmons*, the

officer was relying on the Michigan Vehicle Code when he could not see a metal registration plate on the back of a vehicle although it later turned out the vehicle had a paper temporary plate in the rear window. “Thus, the temporary paper license plate was not in a clearly visible position or in a clearly legible condition.” *Id.* at 89 In the present case, the deputy did not rely on the Michigan Vehicle Code at all as already noted by the Court of Appeals;

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. *People of the State of Michigan v Anthony Michael Owen*, unpublished per curiam opinion of the Court of Appeals, issued July 23, 2019 (Docket No. 339668), p 6.

Appellant also cites *Illinois v Rodriguez*, 497 US 177; 185-186; 110 S Ct 2793; 111 L Ed 2d 148 (1990) to support the position that, because police officers need to make many factual determinations, they don’t always have to be correct, they just need to be reasonable. In the instant case, the deputy himself testified that it would be reasonable to expect police officers to first know what the speed limit is before enforcing it. Again, as our Court of Appeals in this matter held regarding the deputy;

“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.” *People of the State of Michigan v Anthony Michael Owen*, unpublished per curiam opinion of the Court of Appeals, issued July 23, 2019 (Docket No. 339668), p 5.

Appellant further cites *Brinegar v United States*, 338 US 160, 176; 69 S Ct 1302; 93 L Ed 2d 1879 (1949) which stated:

“Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability.” *Brinegar v. United States*, 338 U.S. 160, 176 (1949) (emphasis added)

The situation in this matter in which the deputy confronted was not ambiguous and the facts could not sensibly lead to the probability that Appellee was speeding. Again, Under MCL 257.628(1), because the road had no posted speed limit sign, the speed limit was 55 miles per hour.

Appellant even cites *Howse v Hodous*, 953 F3d 402, 407 (CA 6, 2020), which of course, was decided 5 years after the deputy conducted a traffic stop on Appellee. In *Howse v Hodous*, as cited by Appellant, the court said:

“In those crucial seconds, officers don't have the time to pull out law books and analyze the fine points of judicial precedent. To avoid "paralysis by analysis," qualified immunity protects all but plainly incompetent officers or those who knowingly violate the law. *Rudolph v. Babinec*, 939 F.3d 742, 756 (6th Cir. 2019)”

Howse at *5 (6th Cir. Mar. 18, 2020)

In this case, there were no “crucial seconds” involved where the deputy needed to “analyze the fine points of judicial precedent.” The deputy, seeing no speed limit signs, simply needed to apply the unambiguous law. By knowing that part of Parsonage Road was 55 miles per hour, and not applying it to the entire, unposted roadway, the deputy was *plainly incompetent*.

“A reasonably competent law enforcement officer should have known that.” *People of the State*

of *Michigan v Anthony Michael Owen*, unpublished per curiam opinion of the Court of Appeals, issued July 23, 2019 (Docket No. 339668), p 5.

Appellant argues that *Herring v United States*, 555 US 135, 147; 129 S Ct 695; 172 L Ed 2d 496 (2009), prevents the court from excluding evidence because “[t]his was a mistake, nothing more, nothing, pernicious, nothing sloppy.” In *Herring* however, the defendant, who was already “no stranger to law enforcement” *Id.* at 137, was arrested because a police investigator from one county was informed by a warrant clerk in a neighboring county’s police agency that there was a warrant for that defendant for his failure to appear on a felony charge. *Id.* at 137 As it turned out, that warrant had been recalled 5 months earlier but someone failed to correct the entry in the police computer database. *Id.* at 138 When that defendant was arrested, police found illegal contraband; the defendant moved to suppress the evidence, and the U. S. Supreme Court upheld the judgment of the Court of Appeals for the Eleventh Circuit. *Id.* at 48.

In *Herring*, the error was so far attenuated from the arrest. *Id.* at 137 (“Our cases establish that such suppression is not an automatic consequence of a Fourth Amendment violation. Instead, the question turns on the culpability of the police and the potential of exclusion to deter wrongful police conduct. Here the error was the result of isolated negligence attenuated from the arrest. We hold that in these circumstances the jury should not be barred from considering all the evidence.”)

An unknown clerk in one county failed to make an entry into a police computer 5 months before police in another county contacted that defendant and arrested him. In the present case, the error was immediate. Deputy Madsen failed to apply any law to his actions when he pulled Appellee over and then later arrested him. It should be noted that in *Herring*, a dissenting

opinion, by Justice Ginsburg, with whom Justice Stevens, Justice Souter, and Justice Breyer joined, believed the Court should apply a forceful exclusionary rule. “In my view, the Court's opinion underestimates the need for a forceful exclusionary rule and the gravity of recordkeeping errors in law enforcement.” *Id.* at 150

Further, in *People v. Cartwright*, 454 Mich. 550, 557-58 (Mich. 1997) the Court held “The Fourth Amendment of the United States Constitution guarantees the right of the people to be free from unreasonable searches and seizures. US Const, Am IV. The remedy for a violation is suppression of the unlawfully obtained evidence. *Weeks v. United States*, 232 U.S. 383; 34 S Ct 341; 58 L Ed 652 (1914)”. *Cartwright* at 557

Appellant suggests that “...the Court of Appeals said the deputy should have known in this counterintuitive situation what the lower court took five months to figure out...,” and that the police “spend their time trying to protect the public, not reading casebooks.” citing *Ashford v Raby*, 951 F3d 798, 804 (CA 6, 2020) Again, the law is simple here, not counterintuitive. If no posted sign, the speed limit is 55 miles per hour. No need to study casebooks, it is printed on free state maps.

In Michigan, the speed limit laws are probably about as basic as our laws get. This law is taught to new troopers, deputies, and police officers. Material was created and sent out at the time the law changed. This law is clearly printed on the state maps which are given out free within arm's reach of the prosecutor's desk. Even teenagers learn it in driver's training. Certainly, our own officers of the law should be expected to know it. Deputy Madsen seemed to be aware of the law himself because he knew that it was 55 miles per hour in another area of Parsonage road where the speed limit was not posted. It can't be reasonable for an officer who

knows the correct law to randomly and incorrectly determine that it doesn't apply on different sections of the same roadway.

Appellant also argues that "almost all the rest of the village has 25 miles per hour signs," but even that is not true. While there was testimony that most of the signs are 25 miles per hour, not all streets in the village have speed limit signs. Further, because at least part of the village was posted 40 miles per hour, it was not reasonable for the deputy to believe the entire village was 25 miles per hour. Again, this was not a mistake of fact, nor a mistake of law.

Although Appellant implies there is a "village-wide speed limit" of 25 miles per hour, the facts do not support this reasoning. First, at least part of the village is posted 40 miles per hour. Second, although there are signs at each entrance to the village notifying motorists of village-wide ordinances for overnight parking and school bus loading and unloading, there are no notifications of a village-wide speed limit. Third, and possibly most importantly, Michigan law does not support a village-wide speed limit.

In 2006, nine years before this traffic stop and about nine years before the deputy became a deputy, PA85 was enacted and specific guidelines were put in place for establishing speed limits. And although Appellant continues to claim the incident took place in a "residential" area, that term has no place in this matter. Residence districts were repealed in PA85. That means the legislature specifically intended that residential areas should not be a factor in determining speed limits.

Michigan State Police Lieutenant Gary Megge, on the other hand, testified how speed limits should have been established and that the speed limit is 55 miles per hour because the village failed to properly comply with the statute. Lt. Megge further testified that, had the Village of Saranac complied with the law and posted a speed limit sign after conducting a speed

study or access-point count, the speed limit would have been 45 miles per hour. The deputy still would not have had lawful grounds for stopping Appellee, as he was only traveling 43 miles per hour.

In *Heien*, the Supreme Court tells us that “an officer can gain no Fourth Amendment advantage through sloppy study of the laws he is duty-bound to enforce.” *Heien* at 540-41. The deputy in this case did not make a reasonable mistake of the law because he failed to even consider the law and was unreasonably ignorant of it.

A FINDING OF STATUTORY AMBIGUITY SHOULD BE REQUIRED BEFORE FINDING
THAT AN OFFICER MADE A REASONABLE MISTAKE

In *Heien*, the United States Supreme Court clarified that reasonable mistakes of law can justify a seizure incident to a traffic stop. *Heien* at 536. It can also be concluded that the law must be ambiguous as a condition precedent to finding that an officer made a reasonable mistake. Justice Kagan in her concurrence stated that the statute be “genuinely ambiguous, such that overturning the officer’s judgment requires hard interpretive work.” *Id.* at 541 (Kagan, J., concurring). This would ensure that officers know the law they are tasked to enforce and do not have unlimited capacity for making mistakes. This would also be consistent with the *Heien* majority’s insistence that the standard should be stricter than the standard for qualified immunity. *Id.* at 539. And with Justice Kagan’s concurring statement that the statute must pose a really difficult or very hard question of statutory interpretation. *Id.* at 541 (Kagan, J., concurring). “If it is appropriate to presume that citizens know the parameters of the criminal laws, it is surely appropriate to expect the same of law enforcement officers— at least with regard to

unambiguous statutes.” *Northrup v City of Toledo Police Dep’ t*, 785 F.3d 1128, 1132 (6th Cir. 2015) citing *Heien* at 540.

Furthermore, other jurisdictions have varied in their application of *Heien* and some courts have found that a finding of statutory ambiguity is required before finding that an officer made a reasonable mistake of law. “There also appears, in this Court’s view, to be a condition precedent to even asserting that a mistake of law is reasonable.” *Flint v. City of Milwaukee*, 91 F.Supp.3d 1032, 1057 (E.D.Wis. 2015) “The statute isn’t ambiguous, and *Heien* does not support the proposition that a police officer acts in an objectively reasonable manner by misinterpreting an unambiguous statute.” *United States v. Stanbridge*, 813 F.3d 1032, 1037 (7th Cir. 2016).

THE VILLAGE OF SARANAC VIOLATED APPELLEE’S CONSTITUTIONAL RIGHTS

Not only did the deputy violate Appellee’s constitutional rights, but the Village of Saranac did as well.

Protective of the fundamental “right of the people to be secure in their persons, houses, papers, and effects,” the Amendment “is a constraint on the power of the sovereign, not merely on some of its agents.” *Ibid.* (emphasis added) (internal quotation marks omitted); see Stewart, *The Road to Mapp v. Ohio and Beyond: The Origins, Development and Future of the Exclusionary Rule in Search-and-Seizure Cases*, 83 Colum. L.Rev. 1365 (1983). I share that vision of the Amendment.” (STEVENS, J., dissenting). *Herring* at 151-52.

By adopting the Michigan Motor Vehicle Code as its local book of ordinances and refusing to comply with the law within it, the Village, as a sovereign, set in motion what would later be the unlawful traffic stop. After 2006, municipalities were required to properly set and post speed limits as defined by PA85. Although the Village of Saranac had nine years to comply, no such action was done. Now, 14 years after PA85 was enacted, the Village of Saranac still has not properly set speed limits. By posting a 25 miles per hour speed limit sign after a lieutenant

with the Michigan State Police investigated the area, and after the lower court in this matter declared the road a 55 miles per hour zone, the Village demonstrated that it never had any intention of complying with the law and still refuses to do so. Now, any motorist traveling through the Village of Saranac faces the same unlawful detention that Appellee did.

Additionally, the Michigan Supreme Court has held that Article 1, § 11 of the Michigan Constitution, guarding against unreasonable searches and seizures, affords more Fourth Amendment protections than the United States Constitution. See, for example, *Sitz v Department of State Police*, 443 Mich 744; 506 NW2d 209 (1993) (where sobriety checkpoints were deemed to violate the Michigan Constitution despite the United States Supreme Court holding that they did not violate the U.S. Constitution). The proposition that an officer's mistaken belief of the law is enough to allow warrantless and suspicionless seizures of automobiles violates Article 1, § 11 of the Michigan Constitution.

Finally, suppressing the evidence accomplishes the goal of deterring police misconduct, as well as that of a local sovereign. When there is a violation of the Fourth Amendment, suppression of the unlawfully obtained evidence is required. *People v Cartwright*, 454 Mich 550, 558; 563 NW2d 208 (1997). The deputy violated Appellee's Fourth Amendment rights because he lacked reasonable suspicion to justify the stop and the Village of Saranac violated Appellee's Fourth Amendment rights because it failed to comply with the law by properly establishing speed limits and posting signs. As such, the opinion of the Court of Appeals should be affirmed, and all evidence as a result should be suppressed and the charges dismissed.

CONCLUSION

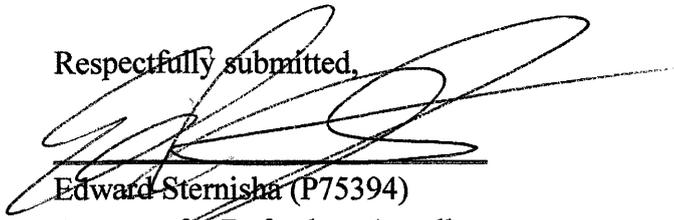
Because the statute was clear and the deputy was unreasonably ignorant of the law, the deputy's mistake of the law was not objectively reasonable. Because the deputy's mistake of law

was not objectively reasonable, no reasonable suspicion existed. Therefore, the traffic stop was unlawful and violated Appellee's constitutional rights to be free of unreasonable search and seizure. Therefore, all evidence obtained by the unlawful stop should be suppressed and charges dismissed.

RELIEF

Anthony Owen respectfully requests that this Honorable Court deny Plaintiff's Appeal and affirm the Court of Appeals decision.

Respectfully submitted,



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