MICHIGAN COURTS NEWS RELEASE
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FOR IMMEDIATE RELEASE

Michigan Supreme Court Announces May 2019 Oral Arguments Schedule

LANSING, MI, April 26, 2019 —The Michigan Supreme Court announced that oral arguments in four cases will be heard May 7, 2019. The Court will convene to hear the first case at 9:30 a.m. in the sixth floor of the Hall of Justice, 925 W. Ottawa Street. The schedule of arguments is posted on the Supreme Court's oral arguments homepage.

The Court broadcasts its oral arguments and other hearings live on the Internet via streaming video technology. Watch the stream live only while the Court is in session and on the bench. Streaming will begin shortly before the hearings start; audio will be muted until justices take the bench. Follow the Court on Twitter to receive regular updates as cases are heard. Please contact the Office of Public Information at 517-373-0129 or SeaksL@courts.mi.gov for permission to film or photograph during the hearing. See the link to Request and Notice for Film and Electronic Media Coverage of Court Proceedings. The request must be submitted three days in advance of the hearing.

These brief accounts may not reflect the way that some or all of the Court's seven justices view the cases. The attorneys may also disagree about the facts, issues, procedural history, and significance of these cases. For further details about the cases, please contact the attorneys.

Tuesday, May 7, 2019
Morning Session

MOAA 156502
PEOPLE OF THE STATE OF MICHIGAN, Mark Holsomback
Plaintiff-Appellee,

v (Appeal from Ct of Appeals)
(Kalamazoo – Johnson, J. [retired])

ANTJUAN PIERRE JACKSON, Angeles Meneses
Defendant-Appellant.

Defendant pled guilty to unarmed robbery. At sentencing, he objected to the scoring of offense variable (OV) 13 (continuing pattern of criminal behavior) at 25 points, claiming that his two prior convictions for attempted resisting and obstructing a police officer

(which were punishable by up to one year in jail) were misdemeanors, not felonies, and thus could not be counted for purposes of scoring OV 13. The trial court rejected the challenge and sentenced defendant as a second habitual offender to serve 8 to 22½ years in prison. The Court of Appeals denied defendant's delayed application for leave to appeal for lack of merit in the grounds presented. The Supreme Court remanded the case to the Court of Appeals for consideration as on leave granted. On remand, in a published opinion, the Court of Appeals affirmed the scoring of OV 13, holding that, because resisting and obstructing a police officer is an enumerated class G felony, the trial court was required to consider defendant's convictions for attempted resisting and obstructing as class H felonies under MCL 777.19(3)(b). The Supreme Court has directed oral argument on defendant's application for leave to appeal to address whether the provision in MCL 777.19(1) that the sentencing guidelines only apply to an attempt to commit an enumerated offense "if the attempted violation is a felony" requires that the offense defendant attempted to commit be a felony, or the attempt conviction itself be a felony, for purposes of scoring OV 13, MCL 777.43(1)(c).

MOAA 157116

PEOPLE OF THE STATE OF MICHIGAN, Mark Sanford
Plaintiff-Appellee,

v (Appeal from Ct of Appeals)
(Berrien – Howard, D.)

SHAE LYNN MULLINS, John Fraser
Defendant-Appellant.

Defendant convinced her young daughter to lie to her teacher about being sexually abused by her father. Her daughter complied and the teacher reported the matter to the school principal, who in turn reported the matter to Child Protective Services. A jury convicted defendant of making a false report of felony child abuse, MCL 722.633(5), and contributing to the delinquency of a minor, MCL 750.145. On appeal, defendant argued that she is not criminally liable under MCL 722.633(5) because she did not make the false report herself. The Court of Appeals affirmed defendant's convictions in a published opinion. The Supreme Court has directed oral argument on defendant's application for leave to appeal to address: (1) whether MCL 722.633(5), which criminalizes making a false report of felony child abuse, applies to non-mandatory reporters; (2) whether the phrase "intentionally makes a false report of child abuse or neglect" is broad enough to encompass a circumstance in which a child is intentionally enlisted for the purpose of falsely accusing another of abuse or neglect, see MCL 750.411a; *United States v Giles*, 300 US 41, 48-49; 57 S Ct 340; 81 L Ed 493 (1937); and (3) whether MCL 722.633(5) must be read in light of the common-law doctrine of the innocent agent. See Const 1963, art 3, § 7.

MOAA 157465

PEOPLE OF THE STATE OF MICHIGAN, Deborah Blair
Plaintiff-Appellee,

v (Appeal from Ct of Appeals)
(Wayne – Talon, L.)

KELVIN WILLIS, Ronald Ambrose
Defendant-Appellant.

The 52-year-old defendant invited his 16-year-old neighbor to his apartment where he showed the teenager a pornographic video, and then offered him money to engage in sexual acts. The teenager refused the offer, fled from defendant's apartment, and reported defendant's actions. When defendant was arrested, the police discovered cocaine in his pocket. A jury convicted defendant of child sexually abusive activity, possession of less than 25 grams of cocaine, and distributing obscene material to a minor. On appeal, defendant argued that there was no evidence that he acted for the purpose of creating child sexually abusive material, which he asserted is a necessary element of child sexually abusive activity, MCL 750.145c(2). The Court of Appeals affirmed in a published opinion. The Supreme Court has directed oral argument on defendant's application for leave to appeal to address: (1) whether, to sustain a conviction under MCL 750.145c(2), the prosecution must prove that the defendant acted for the purpose of producing or making child sexually abusive material; and (2) whether the evidence in this case was sufficient to support defendant's conviction for child sexually abusive activity.

MOAA 157518

JEREMY DROUILLARD, Mark Granzotto
Plaintiff-Appellant,

v (Appeal from Ct of Appeals)
(St. Clair – West, M.)

AMERICAN ALTERNATIVE INSURANCE CORPORATION, Constantine Kallas
Defendant-Appellee.

Plaintiff was a paramedic who was injured when the ambulance he was riding in ran into a pile of drywall that had been dropped on the roadway moments before by a vehicle that sped away. Plaintiff sought uninsured motorist benefits under the no-fault insurance policy issued to his employer by defendant American Alternative Insurance Company. Defendant moved for summary disposition, arguing that the uninsured motorist provision did not apply because the vehicle that drove away did not cause an object to hit the insured vehicle. Instead, the insurer argued that the ambulance hit the object. The trial court denied defendant's motion for summary disposition. The Court of Appeals reversed and remanded in a split published opinion, holding that under the plain language of the

policy, for the uninsured motorist provision to apply, the object must have hit the insured vehicle, rather than the insured vehicle hitting the stationary pile of drywall. The dissenting judge would have affirmed the trial court's ruling. The Supreme Court has directed oral argument on plaintiff's application for leave to appeal to address whether defendant was entitled to summary disposition on the ground that there was no "uninsured motor vehicle" as defined in the insurance policy.

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