

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

Father's challenge to "one-parent doctrine" before Supreme Court this week Mother admitted she's an unfit parent in no-contest plea; dad argues her plea should not give family court jurisdiction over him when he has not been found to be an unfit parent

LANSING, MI, November 5, 2013 – A father's constitutional challenge to Michigan's one-parent doctrine – which allows a family court to take jurisdiction over children when one parent has been found to be unfit – is before the Michigan Supreme Court in oral arguments this week.

In *In re Sanders*, after the mother pled no contest to charges that she was an unfit parent, the family court ruled, over the father's objections, that the children would remain with a relative. While the father had not been adjudged to be an unfit parent by a court, the family court concluded that, under the one-parent doctrine, the court had jurisdiction over the children by virtue of the mother's no-contest plea, and could also order the father – who has a history of drug abuse and domestic violence – to comply with a service plan, including random drug screens and parenting classes. The father argues that the one-parent doctrine violates his constitutional rights to substantive due process and equal protection of the laws; the Michigan Department of Human Services opposes his appeal, noting in part that, in child abuse and neglect cases, the court's jurisdiction is tied to the children and focuses on their protection.

The Court will also hear *People v Garrison*, in which the defendant, who pleaded guilty to larceny, was ordered by the trial court to pay the crime victims' mileage for traveling to inspect their stolen property and attending the defendant's restitution hearing. At issue is whether restitution to crime victims can include the victims' travel expenses.

The remaining nine cases the Court will hear concern contract, criminal, environmental, and tax law issues.

The Court will hear oral arguments in its courtroom on the sixth floor of the Michigan Hall of Justice on **November 6 and 7**, starting at **9:30 a.m.** each day. The Court's oral arguments are open to the public; the Court also live streams its hearings at <http://www.courts.mi.gov/Courts/MichiganSupremeCourt/oral-arguments/live-streaming/Pages/live-streaming.aspx>. The Court provides summaries of the cases it will hear at <http://www.courts.mi.gov/courts/michigansupremecourt/oral-arguments/pages/default.aspx>.

Please note: 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.

Wednesday, November 6
Morning Session

ANDRIE, INC. v DEPARTMENT OF TREASURY (case no. 145557)

Court of Appeals case no. 301615

Attorney for plaintiff Andrie, Inc.: June Summers Haas/(517) 377-0734

Attorney for defendant Department of Treasury: Jessica A. McGivney/(517) 373-3203

Attorney for amicus curiae Michigan Chamber of Commerce: James R. Holcomb/(517) 371-2100

Trial Court: Court of Claims

Issue: Is a retail purchaser entitled to a presumption that sales tax on a retail transaction was paid by the seller? If a retail transaction in Michigan is subject to the sales tax, MCL 205.51, can it also be subject to the use tax, MCL 205.91, if the sales tax was not paid? ... [Read more](#)

PEOPLE v JOHNSON (case no. 145477)

Court of Appeals case no. 304273

Prosecuting attorney: Michael C. Brown/(734) 240-7600

Attorney for defendant Alfonzo Antwon Johnson: George B. Mullison/(989) 892-2595

Attorney for amicus curiae Attorney General Bill Schuette: Cheri L. Bruinsma/(517) 373-4875

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Timothy A. Baughman/(313) 224-5792

Attorney for amicus curiae Criminal Defense Attorneys of Michigan: Anne M. Yantus/(313) 256-9833

Trial Court: Monroe County Circuit Court

Issue: Under MCL 769.13, a prosecutor who intends to seek an enhanced sentence, based on a defendant's status as an habitual offender, must give notice within a specific time period. May a prosecutor amend the initial notice, to correct erroneous information about the defendant's prior convictions, outside of the specified time period? If an amended notice is invalid under the statute, does the trial court nevertheless have the authority to sentence the defendant as an habitual offender? ... [Read more](#)

PEOPLE v SITERLET (case no. 146713)

Court of Appeals case no. 308080

Prosecuting attorney: Anica Letica/(517) 373-4875

Attorney for defendant Kris Edward Siterlet: Christopher M. Smith/(517) 334-6069

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Timothy A. Baughman/(313) 224-5792

Trial Court: Clare County Circuit Court

Issue: Under MCL 769.13, a prosecutor who intends to seek an enhanced sentence, based on a defendant's status as an habitual offender, must give notice within a specific time period. In this case, the prosecutor gave timely notice that the defendant would be sentenced as a fourth habitual offender, but then amended the notice twice outside of the specified time period – the first amendment stated that the defendant would be sentenced as a third habitual offender, and the second amendment (made after trial) stated that the defendant would be sentenced as a fourth

habitual offender. The defendant did not object when he was sentenced as a fourth habitual offender; is he entitled to relief? ... [Read more](#)

Afternoon Session

PEOPLE v TANNER (case no. 146211)

Court of Appeals case no. 310668

Prosecuting attorney: William J. Vaillencourt, Jr./ (517) 546-1850

Attorney for defendant George Robert Tanner: Mark A. Gatesman/ (517) 231-7003

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Timothy A. Baughman/ (313) 224-5792

Attorneys for amicus curiae Criminal Defense Attorneys of Michigan and American Civil Liberties Union Fund of Michigan: Eve Brensike Primus/ (734) 615-6889, Michael J. Steinberg/ (313) 578-6824

Trial Court: Livingston County Circuit Court

Issue: In *People v Bender*, 452 Mich 594 (1996), the Supreme Court held that a suspect who has an attorney waiting to speak with him does not make a knowing and intelligent waiver of his right to remain silent and to counsel where the police interrogate him without first informing him of the attorney's availability. Should *Bender* be overruled? ... [Read more](#)

PEOPLE v GARRETT (case no. 145594)

Court of Appeals case no. 307728

Prosecuting attorney: David A. McCreedy/ (313) 224-3836

Attorney for defendant William Craig Garrett: Mark J. Kriger/ (313) 967-0100

Attorney for amicus curiae Attorney General Bill Schuette: Aaron D. Lindstrom/ (517) 373-1124

Attorney for amicus curiae Innocence Network: Jennifer L. Neumann/ (313) 234-7100

Attorneys for amicus curiae Michigan Innocence Clinic and American Civil Liberties Union Fund of Michigan: David A. Moran/ (734) 763-9353, Michael J. Steinberg/ (313) 578-6824

Attorney for amicus curiae Omar Rashad Pouncy: David L. Moffitt/ (248) 644-0880

Trial Court: Wayne County Circuit Court

Issue: The defendant is seeking relief from judgment from an October 1995 jury conviction for the robbery and beating of an elderly woman in her home. He has presented evidence that he claims establishes his innocence and warrants a new trial. Has the defendant demonstrated a significant possibility of actual innocence? Is defendant entitled to relief from judgment under MCR 6.508, or the state or federal constitutions? ... [Read more](#)

Thursday, November 7

Morning Session

NACG LEASING, LLC v DEPARTMENT OF TREASURY (case no. 146234)

Court of Appeals case no. 306773

Attorney for petitioner NACG Leasing f/k/a Celtic Leasing, LLC: Thomas S. Nowinski/ (313) 965-8300

Attorney for respondent Department of Treasury: Jessica A. McGivney/ (517) 373-3203

Tribunal: Michigan Tax Tribunal

Issue: The plaintiff, a leasing company, bought a DC-8 and leased it to an aviation company. The aviation company, which had previously arranged to lease the aircraft from another company, had already had the DC-8 in its possession for several months. Is the leasing company subject to Michigan use tax for the aircraft? ... [Read more](#)

MILLER-DAVIS COMPANY v AHRENS CONSTRUCTION, INC., et al. (case no. 145052)

Court of Appeals case no. 284037

Attorneys for plaintiff Miller-Davis Company: Alfred J. Gemrich/(269) 623-8533, Scott G. Graham/(269) 327-0585

Attorney for defendant Ahrens Construction, Inc.: Samuel T. Field/(269) 343-5581

Trial Court: Kalamazoo County Circuit Court

Issue: A general contractor sued a construction company, claiming the defendant violated their contract by poor work on a roof – but the construction company argues that the claim is barred by the six-year statute of limitations on breach of contract claims. ... [Read more](#)

PEOPLE v HARRIS (case no. 145833)

Court of Appeals case no. 296631

Prosecuting attorney: Rae Ann Ruddy/(248) 858-0656

Attorney for defendant Johnny Allen Harris: Jonathan B.D. Simon/(248) 433-1980

Trial Court: Oakland County Circuit Court

Issue: The defendant was convicted of sexually abusing his five-year-old stepdaughter. He claims that he is entitled to a new trial because a doctor's testimony, in which she concluded that the child was sexually abused, was wrongly admitted into evidence. ... [Read more](#)

Afternoon Session

IN RE SANDERS, MINORS (case no. 146680)

Court of Appeals case no. 313385

Attorney for petitioner Department of Human Services: Jerrold E. Schrotenboer/(517) 788-4283

Attorney for respondent Lance Laird: Vivek S. Sankaran/(734) 763-5000

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Terrence E. Dean/(231) 724-6435

Attorney for amicus curiae Children's Law Section of the State Bar of Michigan: Elizabeth S. Warner/(517) 788-6004

Attorney for amicus curiae National Association of Counsel for Children: Robert M. Riley/(313) 465-7572

Attorneys for amicus curiae Juvenile Appellate Clinic of the University of Detroit Mercy School of Law: William E. Ladd, Deborah P. Paruch/(313) 596-0204

Attorneys for amicus curiae Legal Services Association of Michigan, Michigan State Planning Body for the Delivery of Legal Services to the Poor, and Michigan Coalition to End Domestic and Sexual Violence: Beth J. Kerwin/(248) 566-8460, Ann L. Routt/(734) 665-6181

Trial Court: Jackson County Circuit Court Family Division

Issue: The “one-parent doctrine” permits the family court to assume jurisdiction over a child based on a court finding that one parent is unfit; the court need not find that both parents are unfit. The appellant in this case – the father of two young boys who were removed from his custody – argues that this doctrine is unconstitutional, because it allows the court to make dispositional orders that affect both parents, including the one who has not been found to be unfit. ... [Read more](#)

PEOPLE v TAYLOR (case no. 145491)

Court of Appeals case no. 295275

Prosecuting attorney: Kimberly M. Manns/(616) 632-6710

Attorney for defendant Alan N. Taylor: Dennis C. Kolenda/(616) 458-1300

Trial Court: Kent County Circuit Court

Issue: A business owner was convicted and fined for expanding a parking lot into a wetland. He challenges his convictions, arguing in part that the jury was wrongly instructed in what it means for a wetland to be “contiguous” to a body of water. ... [Read more](#)

PEOPLE v GARRISON (case no. 146626)

Court of Appeals case no. 307102

Prosecuting attorney: Anthony M. Damiano/(231) 627-8450

Attorney for defendant Chad James Garrison: Ann M. Prater/(517) 541-5555

Attorney for amicus curiae Attorney General Bill Schuette: Mark G. Sands/(517) 373-4875

Trial Court: Cheboygan County Circuit Court

Issue: After the defendant stole their property, the crime victims drove to inspect their property and also to attend a court hearing on restitution. Did the trial court err in ordering the defendant to pay for the victims’ mileage, as part of the order of restitution? ... [Read more](#)

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