

Resources for staying abreast on case law

- Michigan Supreme Court homepage:
<https://courts.michigan.gov/courts/michigansupremecourt/clerks/pages/opinions.aspx>
- State Bar of Michigan e-Journal: <https://www.michbar.org/e-journal>
- State Appellate Defender Office Appellate Updates: Become a member of the CDRC and receive monthly appellate decision summaries. E-mail Heather Waara, hwaara@sado.org
- Follow our justices and Court on social media
- See also, additional handout from the State Appellate Defender Office

Michigan Case Law by topic December 2018-December 10, 2019

Venue

- *People v McBurrows*, 504 Mich 308 (2019)

Search and Seizure

- *People v Larry Mead*, 503 Mich 205 (2019)
Car passenger's 4A rights
- *People v Hammerlund*, ___ Mich ___ (2019) Docket No. 156901
4A rights in doorway of your home
- *People v Rodriguez*, 327 Mich App 573 (2019)
Valid consent for a warrantless search
- *People v Stricklin*, 327 Mich App 592 (2019)
Valid consent for a warrantless search
- *People v Anthony*, 324 Mich App 24 (2019)
Pulling up next a vehicle is not per se seizure

Evidence

- *People v Thorpe and Harbison*, 504 Mich 230 (2019)
Improper expert testimony in CSC cases
- *People v William Dawun Edwards*, 328 Mich App 29 (2019)
Evidence of past bad acts perpetrated by decedent

Confrontation

- *People v Olney*, 327 Mich App 319 (2019)
Confrontation clause not triggered at preliminary exam

Double Jeopardy

- *People v Davis*, 503 Mich 984 (2019)
AWIGBH and aggravated assault
- *People v Shelton Ali*, ___ Mich App ___ (2019) Docket No. 341121
DHHS-related cases and criminal cases stemming from same incident

Ineffective Assistance of Counsel/Right to Counsel

- *People v Traver*, ___ Mich App ___ (2019) Docket No. 325883
- *People v Parkmallory*, 935 NW2d 49 (2019)
Gun rights restoration
- *People v Hoang*, 328 Mich App 45 (2019)
Failure to object to interpreter not physically present
- *People v Juan Walker*, ___ Mich App ___ (2019) Docket No. 332491
Lafler v Cooper is retroactive

Judicial Bias

- *People v Harold Walker*, 504 Mich 267 (2019)
Judge's behavior throughout trial relevant to whether jury instructions coercive
- *People v Swilley*, 504 Mich 350 (2019)
Judge's questioning of witnesses, including alibi
- *People v Lucker*, 931 NW2d 13 (2019)
Resentencing in front of new judge for departure case

Plea Proceedings

- *People v Coleman and Roberts*, 327 Mich App 430 (2019)
Error requiring plea withdraw affects whole plea, cannot sever plea
- *People v Brinkey*, 327 Mich App 94 (2019)
- *People v Thompkins*, 503 Mich 952 (2019)

Newly Discovered Evidence

- *People v Corley*, 503 Mich 1004 (2019)
This is an unusual case because the trial court did not make findings of fact that are owed deference

DNA

- *People v Urban*, 931 NW2d 365 (2019)
"Reasonable degree of scientific certainty" is meaningless.

Crimes

- *People v Mullins*, Docket No. 157116
False report of child abuse statute includes non-mandatory reporters
- *People v Willis*, 504 Mich 905 (2019)
Intent prong of child sexually abusive material statute
- *People v Worth-McBride*, 504 Mich 889 (2019)
Second-degree murder and first-degree child abuse convictions
- *People v Lee*, Docket No. 157176
Meaning of "act" for second-degree child abuse
- *People v Moss*, 503 Mich 1009 (2019)
Adopted family members and CSC- relations element
- *People v Bruce and Nicolson*, ___ Mich ___ (2019) Docket No. 156827

- Federal Border Patrol officers are public agents for common law misconduct
- *People v Haveman*, ___ Mich App ___ (2019) Docket No. 344825
Leaving child unattended in vehicle is general intent crime
 - *People v Singleton et al*, ___ Mich App ___ (2019) Docket No. 343272
Medical records definition from MRAA and Public Health Code apply to penal code

Defenses

- *People v Morrison*, ___ Mich App ___ (2019) Docket No. 344531
Good Samaritan Law for drug overdoses
- *People v Haynie*, 327 Mich App 555 (2019)
Sufficiency of insanity defense

Jury Instructions

- *People v Miller*, 328 Mich App 719 (2019)
Prosecutor not required to prove timing as an element of identity theft
- *People v Haynie*, 327 Mich App 555 (2019)
Is assault and battery lesser included of AWIM?

Funding for Experts

- *People v Williams*, ___ Mich App ___ (2019) Docket No. 341703
Applying *Kennedy* to *Miller* hearings
- *People v Propp*, ___ Mich App ___ (2019) Docket No. 343255
Funding not necessary for expert on erotic asphyxiation

Sentencing

- *People v Allen*, ___ Mich App ___ (2019) Docket No. 343255
No jail credit when arrested while on parole even if no parole detainer
- *People v Lewis*, 503 Mich 162 (2018)
Individualized cost findings necessary for attorney fees
- *People v Beck*, ___ Mich App ___ (2019) Docket No. 152934
Acquitted conduct at sentencing
- *People v Carter*, 503 Mich 221 (2019)
OV-12 contemporaneous acts depends on how the act of conviction was tried

Michigan Supreme Court Opinions and Orders to look out for

Argued but not yet decided

***People v Price*, 501 Mich 1066 (May 2018 grant order, argued in January 2019, still pending)**

MOAA grant on whether the defendant's convictions under MCL 750.82 (felonious assault) and MCL 750.84 (AWIGBH) violate double jeopardy and whether MCL 750.82 and MCL 750.84 contain contradictory and mutually exclusive provisions such that the Legislature did not intend a defendant to be convicted of both crimes for the same conduct.

***People v Mathews* (October 2019 orals)**

Prosecutor appeal. MOAA on whether warnings to Ms. Mathews reasonably conveyed her right to consult with a lawyer during her interrogation.

***People v Furline, People v Jenkins, Jr* (October 2019 orals)**

MOAA on whether the Court of Appeals clearly erred in deciding that severance was necessary. Order cites to *People v Hana*, 447 Mich 325 (1994).

***People v Reichard* (October 2019 orals)**

MOAA on whether the COA correctly determined that duress is not a defense to charge of felony murder in any circumstances.

***People v Sammons* (October 2019 orals)**

MOAA on whether line-up at police station was unduly suggestive and whether identification of Mr. Sammons was reliable enough to admit at trial.

***People v Warren* (November 2019 orals)**

MOAA on whether, when a defendant's plea of guilty or no contest will subject him to the court's discretion to impose consecutive sentences, the court must advise the defendant of that possibility before the court may accept the plea.

***People v Towne* (November 2019 orals)**

MOAA on whether prior to plea of guilty or no contest, a defendant must be informed of possibility of consecutive sentences.

***People v Vanderpool* (November 2019 orals)**

MOAA on whether extension of a probationary term without notice or hearing violates due process.

People v Wang (November 2019 orals)

MOAA on whether a statutory exception to unlawful practice of health profession is an element that the prosecutor must prove and if so, whether evidence was sufficient to sustain Ms. Wang's convictions.

People v Bennett (December 2019 orals)

MOAA on admissibility of rap lyrics and videos and gang affiliation and whether the admission of such evidence, coupled with generalizations made by prosecutor during closing argument is character evidence and/or outcome determinative error.

People v Turner (December 2019 orals)

Full leave grant on, among other things, whether a legal misconception concerning one sentence renders the other sentences from the same transaction invalid.

People v Gilmore (December 2019 orals)

MOAA on waiver/forfeiture for a restitution hearing when Mr. Gilmore pled guilty and plea had restitution attached.

Not yet argued (and none are scheduled for January 2020)

People v Betts

This case was heard last term as a MOAA with *Snyder*. It is now being heard on its own to answer whether SORA requirements amount to punishment.

People v Masalmani

Full leave grant to determine whether the Court properly considered the *Miller* factors in imposing an LWOP sentence for Mr. Masalmani. Includes a question which party bears the burden of proof at these hearings.

People v Jemison

Full leave grant on whether permitting an expert witness to testify by two-way interactive video, over the defendant's objection, denied the defendant his constitutional right to confront witnesses and, if so, whether this error was harmless.

People v MacFarlane, Jr.

MOAA on whether the prosecution's medical expert invaded the province of the jury by using phrases such as "abusive head trauma" and "definite pediatric abuse"

People v Wood

Full leave grant. Mr. Wood was convicted of jury-tampering and COA found that "jurors" include those from pool never selected and that this inclusion does not impede on Mr. Wood's First Amendment rights.

People v Bean

Full leave grant on whether second-degree child abuse is an adequate predicate “other felony” to sustain a charge of CSC-I when CSC-I penetration is same act underlying child abuse.

People v Terrance

Prosecutor appeal. MOAA on whether the COA erred in deciding that when the jury acquitted Mr. Terrance of first and second-degree murder it necessarily decided an issue of ultimate fact, precluding prosecution on the crime of torture arising out of the same set of circumstances.

People v Haynie

Full leave grant on whether assault and battery is a necessarily included lesser of AWIM.

People v Hughes

MOAA on whether the probable cause underlying the search warrant authorized police to obtain all of Mr. Hughes’ cellphone data.