

**Court of Appeals, State of Michigan**

**ORDER**

Township of West Bloomfield v James Cantini

Docket No. 339453

LC No. 2017-159970-AR

Mark J. Cavanagh  
Presiding Judge

Elizabeth L. Gleicher

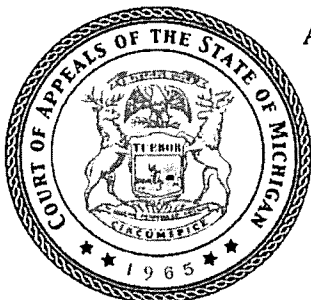
Colleen A. O'Brien  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting leave to appeal, pursuant to MCR 7.205(E)(2), the Court orders that the Oakland Circuit Court's July 28, 2017 order is REVERSED and the matter REMANDED to the 48<sup>th</sup> District Court for immediate dismissal of the pending violation of probation based on plaintiff's motion. Plaintiff, as prosecutor, has sole discretion to decide whether to pursue prosecution of criminal offenses, including whether to proceed with a probation violation. Constitutional separation of powers bar the trial court from interfering with the prosecutor's decision unless it is unconstitutional, illegal, or ultra vires. *People v Gillis*, 474 Mich 105, 141; 712 NW2d 419 (2006); *People v Curtis*, 389 Mich 698, 708-709; 209 NW2d 243 (1973); *People v Davis*, 310 Mich App 276, 287; 871 NW2d 392 (2015); *People v Farmer*, 193 Mich App 400, 402-403; 484 NW2d 407 (1992); *People v Williams*, 186 Mich App 606, 613; 465 NW2d 376 (1990). This case was not before in the circuit court after a felony indictment or information, so MCL 767.29 does not apply. *Curtis*, at 707. Since plaintiff's decision to dismiss the probation violation was not unconstitutional, illegal, or ultra vires, the district court erred by interfering with that dismissal. This order is to have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



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

AUG - 1 2017

Date

Chief Clerk