

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS WILLIAM SKUDLAREK,

Defendant-Appellant.

UNPUBLISHED
January 28, 1997

No. 183054

Recorder's Court
LC No. 94-005828

Before: Fitzgerald, P.J., and Cavanagh and N.J. Lambros,* JJ.

FITZGERALD, P.J. (concurring.)

I write separately to emphasize that the sole basis for our holding is the fact that the prosecutor failed to challenge on appeal the trial court's finding that there was no evidence that defendant's driving was a cause of the accident that resulted in the victim's death – a necessary element of the crime of OUIL causing death. *People v Lardie*, 452 Mich 231, 259-260; 551 NW2d 656 (1996).

/s/ E. Thomas Fitzgerald

* Circuit judge, sitting on the Court of Appeals by assignment.