

Order

Michigan Supreme Court
Lansing, Michigan

December 15, 2006

Clifford W. Taylor,
Chief Justice

131223
131224

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 131223
COA: 264865
Genesee CC: 05-016145-FH

MICHAEL DAVID KELLER,
Defendant-Appellee.

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 131224
COA: 265118
Genesee CC: 05-016144-FH

MELINDA SUE KELLER,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the March 30, 2006 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). We order the Genesee Circuit Court, in accordance with Administrative Order 2003-03, to promptly determine whether the defendants are indigent and, if so, to immediately appoint James Zimmer to represent the defendants in this Court. The parties shall submit supplemental briefs within 56 days of the determination of indigency, and they should address: (1) whether the presence in the defendants' trash of a small amount of marijuana constituted probable cause justifying the search; (2) assuming there was a Fourth Amendment violation, whether police acted in objectively reasonable good-faith reliance on the warrant; (3) whether the search violated MCL 780.653; and (4) assuming that the search violated MCL 780.653, but not the Fourth Amendment, whether the trial court elected a proper remedy by permitting the defense to argue to the jury that police misled the magistrate and violated Michigan law in their efforts to obtain a search warrant.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 15, 2006

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk