

Order

Michigan Supreme Court
Lansing, Michigan

September 29, 2010

Marilyn Kelly,
Chief Justice

140465

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

PEOPLE OF THE STATE OF MICHIGAN,-
Plaintiff-Appellee,

v

SC: 140465
COA: 293694
Kalkaska CC: 00-002060-FH

MICHAEL TIRONI,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 28, 2009 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we DIRECT the Kalkaska Circuit Court to submit to the Clerk of this Court within 28 days of the date of this order a written explanation of the circumstances surrounding the written communication(s) between the trial judge and the prosecutor that allegedly were not served on defendant and/or defense counsel, including the trial judge's May 2008 memorandum to the prosecutor inquiring regarding the applicability of *People v Nyx*, 479 Mich 112 (2007), and the prosecutor's memorandum responding to the court's request. The trial judge's written submission to this Court shall explain whether these documents were served on defendant or defense counsel, and if not, the reason for this failure of service. See Code of Judicial Conduct, Canon 3(A)(4) and Michigan Rules of Professional Conduct, Rule 3.5 (prohibiting ex parte communications).

We further DIRECT the prosecutor to file with the Clerk of this Court within 28 days of the date of this order a written explanation regarding whether the documents in question were served on defendant or defense counsel and the reason for any failure of service. Defendant may file a response to the prosecutor's written explanation within 28 days after the prosecutor's response is filed and served.

We retain jurisdiction.



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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.

September 29, 2010

Corbin R. Davis

Clerk