

Order

Michigan Supreme Court
Lansing, Michigan

October 14, 2009

Marilyn Kelly,
Chief Justice

138668

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 138668
COA: 281055
Muskegon CC: 04-051083-FH

BRIAN LEE HILL,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 19, 2009 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed: (1) whether a person who downloads child sexually abusive material from the internet, or who burns a CD-R of child sexually abusive material that he has downloaded from the internet, falls within the scope of MCL 750.145c(2), which criminalizes “mak[ing]” or “produc[ing]” child sexually abusive material, and under what circumstances; (2) how the Court of Appeals interpretation of MCL 750.145c(2) interacts with the prohibition in MCL 750.145c(4) on the “possession” of child sexually abusive materials; and (3) whether the Court of Appeals interpretation of “makes” has legal consequences for other criminal offenses that involve downloading material from the internet.

The Clerk of the Court is directed to place this case on the January 2010 session calendar for argument and submission. Appellant’s brief and appendix must be filed no later than November 25, 2009, and appellee’s brief and appendix, if appellee chooses to submit an appendix, must be filed no later than December 21, 2009.

CORRIGAN, J. I find the order granting leave to appeal overbroad, particularly with regard to issue 1, because it goes well beyond the actual facts of this case. I encourage the parties and any amici curiae to clearly address the facts of *this case*, where

defendant did not merely download child sexually abusive material from the Internet; defendant burned approximately 50 compact disks on which he compiled thousands of pictures depicting nude children in sexually explicit poses and engaged in sexual acts.



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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.

October 14, 2009

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

Clerk