

# Order

Michigan Supreme Court  
Lansing, Michigan

November 20, 2013

Robert P. Young, Jr.,  
Chief Justice

147391 & (57)

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 147391  
COA: 307360  
Calhoun CC: 2011-002060-FH

MATTHEW CHARLES MCKINLEY a/k/a  
JEFFREY ALAN NEWBOLD,  
Defendant-Appellant.

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On order of the Court, the motion for permission to file an in propria persona supplement is GRANTED. The application for leave to appeal the May 16, 2013 judgment of the Court of Appeals is considered, and it is GRANTED, limited to the issues: (1) whether an order of restitution is equivalent to a criminal penalty, and (2) whether Michigan's statutory restitution scheme is unconstitutional insofar as it permits the trial court to order restitution based on uncharged conduct that was not submitted to a jury or proven beyond a reasonable doubt. See *Southern Union Co v United States*, 567 US \_\_\_; 132 S Ct 2344; 183 L Ed 2d 318 (2012); *Apprendi v New Jersey*, 530 US 466; 120 S Ct 2348; 147 L Ed 2d 435 (2000); contra *People v Gahan*, 456 Mich 264 (1997).

The Criminal Defense Attorneys of Michigan and the Prosecuting Attorneys Association 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, Larry S. Royster, 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.

November 20, 2013

Clerk