

Order

Michigan Supreme Court
Lansing, Michigan

October 22, 2014

Robert P. Young, Jr.,
Chief Justice

149502

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-Appellant,

v

SC: 149502
COA: 314375
Leelanau CC: 12-001777-FH

JOSEPH WILLIAM MILLER,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the March 11, 2014 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed whether the state and federal Double Jeopardy Clauses, US Const, Am V, and Const 1963, art 1, § 15, prohibit punishment for both the compound offense of Operating While Intoxicated (OWI) causing serious injury, MCL 257.625(5), and its predicate offense of OWI, MCL 257.625(1) and (9)(a), where both the compound and predicate offenses have alternative elements. Compare *People v Ream*, 481 Mich 223 (2008), with *United States v Dixon*, 509 US 688; 113 S Ct 2849; 125 L Ed 2d 556 (1993), and *People v Wilder*, 485 Mich 35 (2010). The parties shall also include among the issues to be briefed: (1) whether the existence of prior convictions under MCL 257.625(9)(c) amounts to an element of OWI causing serious injury for purposes of the state and federal Double Jeopardy Clauses and, accordingly, (2) whether punishment for both third-offense OWI, MCL 257.625(9)(c), and OWI causing serious injury amounts to impermissible multiple punishment under the Double Jeopardy Clauses, or whether each offense has an element that the other does not.

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.

October 22, 2014


Clerk