

Order

Michigan Supreme Court
Lansing, Michigan

March 6, 2026

168727

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

ANSEN WILLIAM EVANS,
Defendant-Appellant.

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

SC: 168727
COA: 371021
Kalkaska CC: 23-004811-FH

By order of October 3, 2025, the plaintiff was directed to answer the application for leave to appeal the May 8, 2025 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

WELCH, J. (*concurring*).

I concur in the Court's decision to deny leave in this case. I write separately to emphasize that individuals have a strong possessory interest in their cell phones under both the United States Constitution and the Michigan Constitution. Though I cannot say that the seizure here was unreasonable as a matter of law, seizing this tool that has become so essential to everyday life may be unreasonable in other circumstances. When in possession of an individual's cell phone, law enforcement officers must act diligently in pursuing a warrant. Any unnecessary delay in obtaining the warrant weighs in favor of finding the seizure unreasonable.

I. FACTS

In this case, defendant faces charges for one count of possession of child sexually abusive material, MCL 750.145c(4). Defendant originally called the Michigan State Police to report that he was being blackmailed by someone he described as a woman he met online. Defendant explained to the responding trooper that he shared his credit card information with her so that she could purchase car insurance; however, she made an unauthorized clothing purchase. When defendant confronted her about using his credit card information for unauthorized purposes, she informed him that she was 17 and if he reported her to law enforcement, she would tell them that defendant had indiscreet pictures

of a minor. Defendant also admitted to the trooper that she had previously sent him explicit photographs, but he said that he thought she was over 18.

After a short investigation, the trooper learned that the “woman” was indeed a minor. Worried that defendant would delete any photographs of her that he possessed, the trooper seized defendant’s cell phone. Defendant refused to sign a “consent to search” form, and the trooper told defendant that he would obtain a warrant before searching the phone’s data. With approximately two hours left in his shift, the trooper placed defendant’s phone in a secure Faraday bag and turned to other matters.¹ Five days later, on his next shift, the trooper obtained a warrant to search the phone. The Computer Crimes Unit found 18 videos and 190 images of child sexually abusive material.

Defendant moved to suppress the evidence obtained from the phone. The trial court denied the motion, holding that the warrantless seizure of the phone was reasonable given the exigent circumstances and existence of probable cause to believe that the phone contained evidence. The Court of Appeals affirmed in a published opinion.

II. DISCUSSION

The United States and Michigan Constitutions protect against unreasonable searches and seizures of a person’s “effects” or “possessions,” respectively. US Const, Am IV; Const 1963, art 1, § 11. “A ‘seizure’ of property occurs when there is some meaningful interference with an individual’s possessory interests in that property.” *United States v Jacobsen*, 466 US 109, 113 (1984). “The touchstone of the Fourth Amendment is reasonableness.” *People v Hammerlund*, 504 Mich 442, 451 (2019). Though a warrantless seizure of personal property is generally unreasonable per se,

[w]here law enforcement authorities have probable cause to believe that a container holds contraband or evidence of a crime, but have not secured a warrant, the Court has interpreted the [Fourth] Amendment to permit seizure of the property, pending issuance of a warrant to examine its contents, if the exigencies of the circumstances demand it [*United States v Place*, 462 US 696, 701 (1983).]

Even when the exigencies of the circumstances permit warrantless seizure at the outset, the seizure “may become unreasonable as a result of its duration” *Segura v United States*, 468 US 796, 812 (1984); see also *Jacobsen*, 466 US at 124. When weighing whether a warrantless seizure was reasonable, a court “must balance the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the importance of

¹ A Faraday bag is a metal bag that isolates a phone from radio waves and ensures that the phone’s data cannot be wiped remotely. See *Riley v California*, 573 US 373, 390-391 (2014).

the governmental interests alleged to justify the intrusion.” *Place*, 462 US at 703. Relevant factors in this balancing test include the “brevity” of the seizure, the strength of the state’s basis for the seizure, the degree and significance of the interference with the defendant’s property, whether the seizure affects the defendant’s liberty interest in continuing with normal activities freely, and “whether the police diligently pursue[d] their investigation.” *Id.* at 708-709.

Diligent pursuit entails leveraging resources to minimize intrusion on Fourth Amendment interests, such as arranging for a timelier search. See *Place*, 462 US at 709 (90-minute delay was unreasonable where agents had “ample time” to arrange for a search that minimized the Fourth Amendment intrusion, yet failed to); *United States v Morgan*, 713 F Appx 829, 831-832 (CA 11, 2017) (17-day delay reasonable where an agent began drafting a warrant application “the first day after seizing the evidence” and assigned the follow-up to other agents when he left town); *United States v Pratt*, 915 F3d 266, 272 (CA 4, 2019) (31-day delay unreasonable where the only explanation for the delay was that agents had to decide in which state to seek a warrant); *United States v Mitchell*, 565 F3d 1347, 1351 (CA 11, 2009) (21-day delay unreasonable where agent failed to apply for warrant or pass case to someone else before leaving town for training).

In this case, defendant does not directly challenge the length of time that law enforcement held his cell phone or whether law enforcement was sufficiently diligent in pursuing a warrant after seizing it. Still, addressing the issue, the Court of Appeals held that the five-day delay between seizing the phone and applying for a warrant was not unreasonably long. *People v Evans*, ___ Mich App ___, ___ (May 8, 2025) (Docket No. 371021); slip op at 8. It emphasized that the fact “defendant was only temporarily deprived of his possessory interest in the cell phone” played a “significant role in evaluating the reasonableness of the time to obtain a search warrant.” *Id.* at 9.

Because defendant does not directly challenge the duration of the seizure, I concur in the court’s decision to deny leave. However, I write to suggest that even a temporary deprivation of access to a cell phone can have serious consequences and could render a seizure unreasonable. Both the United States Supreme Court and this Court recognize that the amount of data stored on cell phones make them distinct from other physical objects, leading to increased *privacy* interests that trigger special protections to prevent unreasonable *searches*. See *Riley v California*, 573 US 373, 393 (2014) (“Modern cell phones, as a category, implicate privacy concerns far beyond those implicated by the search of a cigarette pack, a wallet, or a purse. . . . [M]any of these devices are in fact minicomputers that also happen to have the capacity to be used as telephones.”); *People v Carson*, ___ Mich ___, ___ (July 31, 2025) (Docket No. 166923); slip op at 16 (“[I]n the context of a cell-phone search, we must jealously guard the requirements of the Fourth Amendment . . .”).

The vast number of daily, essential tasks that require cell phones make them distinct from other physical objects, leading to increased *possessory interests* that should trigger heightened protections to prevent unreasonable *seizures*. As an initial matter, most people no longer have a landline.² For most people, a cell phone is the only method of communication to contact others, including emergency services. Second, cell phones long ago ceased being a tool to just make phone calls or even store photos. They contain a catalog of and are necessary to our entire lives. A cell phone includes, for example, calendars, email, online bill-payment applications, banking applications, transportation applications, building access and car-starting applications, rideshare applications, workplace authentication tools, medical record access, medical device monitoring,³ and two-step authentication to access accounts from other devices.

In many ways, seizing someone's phone is akin to preventing them from accessing the contents of their home and, for some, their workplace. As a result, even temporary deprivation of a cell phone can have significant consequences. Consequently, a person's possessory interest in their cell phone is distinct from and greater than any possessory interest in many other household objects. Seizing a backpack will not stop a person from calling 911, nor will seizing a notebook prevent a person from paying rent or getting a ride to the store.⁴ Seizing a cell phone might. Accordingly, just as with searches, we must jealously guard our state and federal constitutional requirements and ensure that law enforcement does not keep a phone any longer than absolutely necessary.

² Fewer than a quarter of Americans lived in a home with a landline as of 2023. See United States Department of Health and Human Services, National Center for Health Statistics, *National Health Interview Survey Early Release Program* (June 2024), p 2 <<https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202406.pdf>> (accessed February 25, 2026) [<https://perma.cc/76CQ-BPXF>].

³ See Rady Children's Health, *Starting on a Continuous Glucose Monitor* <<https://www.rchsd.org/documents/2023/01/starting-on-a-continuous-glucosemonitor-diabetes-binder.pdf/>> (accessed February 25, 2026); Medtronic, *Follow Your Heart with the Medtronic App Connected Pacemakers* <<https://www.medtronic.com/au-en/patients/treatments-therapies/remote-monitoring/follow-your-heart.html>> (accessed February 25, 2026) [<https://perma.cc/2CPV-NAFQ>].

⁴ Of course, a defendant's possessory interest in a cell phone may be diminished when they are in custody. See *United States v Sykes*, 65 F4th 867, 879 (CA 6, 2024) (42-day delay between seizure and warrant reasonable where defendant was in custody and would not otherwise have had access to his phone). The point is simply that when an individual is not in custody and has not consented to the seizure, they maintain a strong possessory interest in their cell phone.

HOOD, J., did not participate because he was on the Court of Appeals panel.



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I, Elizabeth Kingston-Miller, 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.

March 6, 2026

A handwritten signature in black ink that reads "Elizabeth Kingston-Miller".

Clerk