IMPACT Summaries

June 11 – June 19, 2026

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Administrative Topics

Court Activity:

Duty of Reasonable Inquiry – Artificial Intelligence-Generated Legal Authority

"Under MCR 1.109(E)(5), an attorney's signature on a filing certifies that he or she has read the document and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, the document is well grounded in fact and is warranted by existing law." *Barber v Morawa*, ___ Mich App ___, ___ (2026) (quotation marks omitted). "Artificial intelligence may be a useful tool for legal research and drafting, but the use of such technology does not alter an attorney's professional obligations"—"[l]awyers remain responsible for the filings they sign and submit," and "must verify that cited authorities exist, read the authorities on which they rely, and ensure that those authorities support the propositions asserted." *Id*. at ___. In this case, "[i]n the trial court and again on appeal, plaintiff's counsel relied on artificial intelligence without adequate verification, leading him to cite nonexistent cases and invoke real cases for propositions they do not support, even after defendant identified the defects." *Id*. at ___. "Counsel later acknowledged in a 'Notice of Correction' that artificial intelligence had generated 'plausible but fabricated case citations—a known limitation of such tools.'" *Id*. at ___. "Yet that notice, also prepared with the assistance of artificial intelligence, attributed quotations and legal propositions to cases that did not contain them." *Id*. at ___. "[C]ounsel's submission of fabricated and unsupported authority violated the duty of reasonable inquiry required by MCR 1.109(E)(5)," and "[c]ounsel's explanation does not excuse the violation." *Barber*, ___

Mich App at ___. "Counsel's repeated reliance on artificial intelligence without meaningful verification, despite having been alerted more than once that his filings contained fabricated authority, fell below th[e] standard" set out in MCR 1.109(E)(5). *Barber*, ___ Mich App at ___ (further finding that sanctions are warranted under MCR 1.109(E)(6) and MCR 7.216(C)(1) "for an attorney's submission of fabricated or unsupported legal authority resulting from the misuse of generative artificial intelligence" and remanding "for the trial court to determine the actual damages and expenses, including reasonable attorney fees, that defendant incurred because of this appeal").

Civil Topics

Court Activity:

Attorney Fees – Contemporaneous Timekeeping

"[T]he fee applicant must submit detailed billing records, which the court must examine and opposing parties may contest for reasonableness." *Zielinski v Auto-Owners Ins Co*, ___ Mich App ___, ___ (2026). In this case, defendant argues "that plaintiff's counsel was required to keep contemporaneous time records, rather than compiling expended hours later when plaintiff sought attorney fees." *Id*. at ___. But because nothing "requires contemporaneous timekeeping," "defendant's argument does not warrant relief." *Id*. at ___.

Attorney Fees – Unreasonable Delay

Under MCL 500.3148(1), "an attorney is entitled to a reasonable fee for advising and representing a claimant in an action for personal or property protection insurance benefits that are overdue," and "the attorney's fee is a charge against the insurer in addition to the benefits recovered, if the court finds that the insurer unreasonably refused to pay the claim or unreasonably delayed in making proper payment." *Zielinski v Auto-Owners Ins Co*, ___ Mich App ___, ___ (2026) (cleaned up). "Thus, MCL 500.3148(1) establishes two prerequisites for the award of attorney fees"—"first, benefits must be overdue under MCL 500.3142(2)," and "second, in postjudgment proceedings, the trial court must find that the insurer unreasonably refused to pay the claim or unreasonably delayed in making proper payment." *Zielinski*, ___ Mich App at ___ (cleaned up). In this case, defendant "argues that attorney fees were not appropriate because there was no unreasonable delay in payment." *Id*. at ___. "[T]he jury determined that the payment . . . for the . . . neck surgery was overdue under MCL 500.3142(2)"; "[t]hat is, defendant had reasonable proof of the fact and of the amount of loss sustained but still refused to pay the claim within 30 days." *Zielinski*, ___ Mich App at ___. "In light of this jury determination, the first prerequisite was established, and defendant must overcome the presumption that its refusal to pay that bill within 30 days was unreasonable." *Id*. at ___. "Defendant argues that it carried this burden because neither the medical bill nor the associated medical records specified that the treatment was for an injury related to the subject accident, so defendant's denial was based on a legitimate factual uncertainty," and "further contends that its factual uncertainty is justified by [its independent medical examiner's] subsequent determination that plaintiff did not suffer any spinal injury as a result of the subject accident." *Id*. at ___. "However, although defendant argues that the bill did not indicate a relationship to the accident, . . . when corresponding with Medicare, defendant acknowledged that plaintiff had injured her neck in the subject accident and was treated for that injury," and "also indicated that it had the corresponding medical documentation of the same." *Id*. at ___. Accordingly, "defendant has not met its burden of justifying the refusal to make the requested payments or to otherwise rebut the presumption that its failure to pay these benefits when they were initially requested was unreasonable." *Id*. at ___. "Therefore, the trial court did not abuse its discretion by concluding that defendant failed to rebut the presumption of unreasonableness and awarding plaintiff attorney fees pursuant to MCL 500.3148(1)." *Zielinski*, ___ Mich App at ___.

Breach-of-Contract Claim – Monetary Damages

"The remedy for breach of contract is to place the nonbreaching party in as good a position as if the contract had been fully performed." *Hai v CIG Capital Advisors, Inc*, ___ Mich App ___, ___ (2026) (cleaned up). In this case, "[a] jury determined defendant breached its employment contract with plaintiff and awarded over three million dollars in damages." *Id*. at ___. "Before trial, defendant moved to strike plaintiff's request for a jury trial, noting that plaintiff's breach-of-contract claim asked whether plaintiff had equity in [defendant's consulting department] and if so, how much"—"[d]efendant thus reasoned that plaintiff was seeking equitable relief—specific performance of the letter agreement." *Id*. at ___. "The trial court disagreed and denied the motion." *Id*. at ___. "During trial, defendant reiterated its argument that whether plaintiff is entitled to some equity interest in [defendant's consulting department] is not the same as a right to money damages or a 'buyout.'" *Id*. at ___. "The trial court again disagreed, holding that the complaint sought money damages and did not ask for declaratory relief." *Id*. at ___. On appeal, "defendant contends that a recovery of monetary damages puts plaintiff in a better position than if defendant had performed under the contract"; "[h]owever, [there is] nothing in the record demonstrating that allowing plaintiff to recover the monetary value of his owed equity puts him in a better position than having the equity." *Id*. at ___. "In both instances, plaintiff would recover the same *value*, just different forms—money, or a property interest that has the same value—of it." *Id*. at ___. "Defendant [also] asserts that the court could have awarded specific performance without creating an injustice"; however, "[s]pecific performance is not warranted when there is an adequate remedy at law," and "awarding plaintiff monetary damages is sufficient to place him in as good a position as if the contract had not been breached." *Id*. at ___. "Therefore, the trial court did not err by declining to award specific performance." *Id*. at ___. Finally, defendant "argues that because plaintiff had no entitlement to monetary relief—making his sole available relief equitable in nature—he had no right to a jury trial." *Id*. at ___. But because "plaintiff was entitled to seek monetary damages," the trial court "correctly rejected defendant's arguments that plaintiff could not obtain money damages for his breach of contract claim." *Id*. at ___.

Breach of Fiduciary Duty – Establishing Damages

"In Michigan, directors and officers of corporations owe fiduciary duties and a strict duty of good faith to the corporation they serve, as well as directly to their shareholders." *Turner v J & J Slavik, Inc*, ___ Mich App ___, ___ (2026). "To establish a claim for breach of fiduciary duty, a plaintiff must prove (1) the existence of a fiduciary duty, (2) breach of that duty, and (3) damages caused by the breach of duty." *Id*. at ___ (quotation marks and citation omitted). "Damages in a tort action cannot be presumed but, instead, must be proven," and "damages must be on the basis of an actual, present injury." *Id*. at ___ (cleaned up). In this case, "[p]laintiff argues that the trial court improperly entered a directed verdict regarding his breach of fiduciary duty claim against [defendant]." *Id*. at ___. But "[a]s recognized by the trial court, even assuming [defendant] breached his fiduciary duties to plaintiff, plaintiff was unable to establish the damages arising out of the alleged improper conduct" where there was "a six-year gap with no proofs establishing either the entity's value or the value of plaintiff's shares." *Id*. at ___. "While plaintiff contends that he was barred from presenting evidence concerning [defendants'] assets, he fails to indicate which proofs would have adequately demonstrated the entity's economic status . . . such that the jury could reasonably determine the value of plaintiff's stock during the relevant statutory period, or how any jury instruction would enable the jury to do so considering this six-year evidentiary gap." *Id*. at ___. "Although the absence of evidence was allegedly attributable to defendants' spoliation of evidence, and a trial court may—as a sanction for spoliation of evidence—instruct the jury to presume that the destroyed evidence would have been adverse to the spoliator, there was nevertheless no basis upon which the jury could reasonably deduce the value of [defendants'] or plaintiff's shares." *Id*. at ___. "[A]ny attempt to determine value for the relevant period . . . would have required the jury to speculate as to six years of the entity's operations, performance, liabilities, and overall financial condition without any competent evidentiary foundation." *Id*. at ___. Accordingly, "the trial court properly entered a directed verdict as to plaintiff's breach of fiduciary duty claim." *Id*. at ___.

General Property Tax Act (GPTA) – Claim Accrual

"A claim generally accrues when suit may be brought"—"[t]he focus of the accrual inquiry is not when a particular statutory remedy becomes available," but rather, "[t]he relevant question is when the underlying injury occurred and the claimant could have pursued relief through an available cause of action." *In re Petition of State Treasurer for Foreclosure for Unpaid Tax*, ___ Mich App ___, ___ (2026). In this case, "[p]etitioner foreclosed on and sold parcels of real property previously owned by respondents in 2014"—"[i]n late 2024 and early 2025, respondents sought to recover the surplus proceeds from those sales under MCL 211.78t" of the GPTA. *Petition of State Treasurer for Foreclosure for Unpaid Tax*, ___ Mich App at ___. "In these consolidated appeals, petitioner . . . challenges several orders concerning respondents' claims to surplus proceeds generated by tax-foreclosure sales"—"[t]hese appeals present a common dispositive question: When did respondents' respective claims accrue? Was it (a) in 2014, when the foreclosure sales generated surplus proceeds that petitioner retained; (b) at some later date after the enactment of MCL 211.78t in 2020; or (c) when [the Michigan] Supreme Court held [in *Schafer v Kent Co*, 515 Mich 1 (2024)] that the statute applies retrospectively?" *Petition of State Treasurer for Foreclosure for Unpaid Tax*, ___ Mich App at ___. "Here, respondents' properties were sold in August and September 2014 for amounts exceeding the taxes owed," and "[w]hen petitioner retained the resulting surplus proceeds, respondents were deprived of the compensation to which they were constitutionally entitled"—"[t]he elements of an inverse-condemnation claim were complete at that time because the government retained property belonging to respondents without just compensation." *Id*. at ___. "Accordingly, respondents' claims accrued in 2014." *Id*. at ___. "At the time the claims accrued, claims against the State were governed by [the three-year] limitations provision[]" set out in MCL 600.6452(1)—"[a]pplying that limitations period, respondents were required to bring their inverse-condemnation claims by approximately September 2017," and "[t]hey did not do so." *Id*. at ___. "[G]iven respondents did not pursue inverse-condemnation claims within the then-applicable limitations period, their claims were time-barred before MCL 211.78t was enacted in 2020"—"[n]either *Schafer* nor its predecessor, [*Rafaeli, LLC v Oakland Co*, 505 Mich 429 (2020)], revived claims that were already extinguished." *Petition of State Treasurer for Foreclosure for Unpaid Tax*, ___ Mich App at ___. "The trial court's conclusion that the claims accrued when *Schafer* was decided misapprehends both the nature of the statute and [the Michigan] Supreme Court's decisions"—"[a]lthough *Schafer* clarified the retrospective application of *Rafaeli* and the procedural framework governing such claims, it did not create a new cause of action"—"[i]nstead, it confirmed that the constitutional right existed all along." *Petition of State Treasurer for Foreclosure for Unpaid Tax*, ___ Mich App at ___. "Ultimately, because respondents' claims accrued in 2014 and became time-barred in 2017, the trial court erred by denying petitioner's motions for summary disposition under MCR 2.116(C)(7)." *Petition of State Treasurer for Foreclosure for Unpaid Tax*, ___ Mich App at ___.

Governmental Immunity – MISS DIG Act Exception and Sewage Disposal System Event Exception

"Governmental agencies are generally statutorily immune from tort liability subject to a few narrowly construed exceptions"—"[t]his case concerns two exception to governmental immunity under the governmental tort liability act (GTLA), MCL 691.1401 *et seq*.: the MISS DIG Underground Facility Damage Prevention and Safety Act (the MISS DIG Act), MCL 460.721 *et seq*., under MCL 691.1407(7), and the sewage disposal system event (SDSE) exception, see MCL 691.1416 through MCL 691.1419." *Zezula v Brown*, ___ Mich ___, ___ (2026), rev'g in part ___ Mich App ___ (2025). In this case, plaintiff "suffered property damage when a damaged sewer line caused sewage to back up into his house"—"[h]e brought this negligence action seeking to hold defendant . . . Township liable for allegedly not marking township-owned sewer lines as required by the MISS DIG Act. *Id*. at ___. "The trial court denied [the] Township's motion for summary disposition, holding that MCL 691.1407(7) provided the necessary exception to governmental immunity," and "also granted [plaintiff] leave to amend his complaint to properly assert the SDSE exception to governmental immunity"; "[i]n a split published decision, the Court of Appeals affirmed the trial court's order." *Zezula*, ___ Mich at ___. However, "[t]he trial court and the Court of Appeals erred" in two respects. *Id*. at ___. "First, the GTLA exception in MCL 691.1407(7), which explicitly refers to the MISS DIG Act, provides the ability to file a complaint with the Public Service Commission as a means to avoid governmental immunity"—"MCL 691.1407(7) does not authorize a claim in circuit court for monetary

damages against a governmental agency," so the township is therefore "entitled to summary disposition on this ground." *Zezula*, ___ Mich at ___. "Second, the trial court prematurely granted [plaintiff's] motion to amend his complaint before [he] alleged compliance with the applicable notice requirement" set out in MCL 691.1419. *Zezula*, ___ Mich at ___ ("revers[ing] the decisions of both courts with respect to the summary disposition issue, vacat[ing] both the decision of the Court of Appeals and the trial court with respect to the motion to amend, and remand[ing] to the trial court for further proceedings").

Motion for a New Trial – Misconduct

"MCR 2.611(A)(1)(b) permits a trial court to grant a motion for a new trial if the prevailing party committed 'misconduct,' affecting the moving party's substantial rights." *Zielinski v Auto-Owners Ins Co*, ___ Mich App ___, ___ (2026). "[T]he moving party must show that the misconduct rose to a level warranting relief—courts will not grant new trials for isolated improper comments or overzealous advocacy that was not unfairly prejudicial or designed to distract the jury from the issues." *Id*. at ___. "An attorney's comments usually will not be cause for reversal unless they indicate a deliberate course of conduct aimed at preventing a fair and impartial trial." *Id*. at ___ (quotation marks and citation omitted). In this no-fault action, "plaintiff made three remarks during her trial testimony that indicated [the other driver] was drunk—one during direct examination and two during cross-examination." *Id*. at ___. "Defendant did not object to any of this testimony when it was given." *Id*. at ___. "Later, in closing, plaintiff's counsel stated twice that plaintiff was 'rear-ended at 45 miles an hour by a drunk driver.'" *Id*. at ___. "Defendant did not object to either statement or request curative instruction." *Id*. at ___. "[D]efendant [now] argues that it is entitled to a new trial because plaintiff's counsel erroneously referred to the drunkenness of the other driver in the subject accident, which prejudiced both the trial court and the jury." *Id*. at ___. "The fact that plaintiff was rear-ended and the speed at which she was hit are both relevant to whether she was injured in the car crash"; "[h]owever, the possible inebriation of the other driver was not relevant to any of the issues," and "[i]rrelevant evidence is not admissible." *Id*. at ___. "Accordingly, plaintiff's counsel erred when he referred to plaintiff's irrelevant, inadmissible testimony about [the other driver] being drunk." *Id*. at ___. However, "[a] review of the record indicates that the jury's verdict was supported by the evidence at trial and was not the result of prejudice." *Id*. at ___. Further, "the trial court also gave several curative instructions that mitigated any prejudicial effect of the improper comments." *Id*. at ___. In sum, "[t]he record simply does not support that plaintiff's counsel's isolated comments about [the other driver] being drunk were a deliberate course of conduct aimed at preventing a fair and impartial trial, or that the comments actually had any such effect on the jury or the trial court." *Id*. at ___ (quotation marks and citations omitted). "Accordingly, the trial court did not abuse its discretion by denying defendant's motion for a new trial on the basis of plaintiff's counsel's alleged misconduct." *Id*. at ___.

Motion for a New Trial or Evidentiary Hearing – Supporting Affidavits

"Under MCR 2.611, a trial court may grant a new trial when a party's substantial rights were materially affected by an irregularity in the proceedings of the court, jury, or prevailing party which denied the moving party a fair trial, or misconduct of the jury or of the prevailing party." *Barber v Morawa*, ___ Mich App ___, ___ (2026) (cleaned up). Under MCR 2.611(D)(1), "when the facts stated in the motion for a new trial do not appear on the record of the action, the motion must be supported by affidavit, which must be filed and served with the motion." *Barber*, ___ Mich App at ___ (cleaned up). In this case, "[p]laintiff sought a new trial or evidentiary hearing based on alleged juror misconduct and irregularities." *Id*. at ___. The "affidavit requirement matters here because plaintiff's motion depended almost entirely on alleged statements made during an off-the-record post-verdict discussion"—"[t]hose facts did not appear in the record, so plaintiff was required to support the motion with affidavits," "[b]ut the affidavits plaintiff submitted were not notarized and were therefore invalid." *Id*. at ___. Moreover, "[e]ven if plaintiff had properly supported the factual allegations in her motion, she failed to allege facts that would entitle her to relief." *Id*. at ___. "Plaintiff's allegations were unsupported by valid affidavits, contradicted by defendant's notarized affidavits, and rejected by the trial court based on its own recollection of the post-verdict discussion in which it participated." *Id*. at ___. "On this record, plaintiff failed to demonstrate that the alleged misconduct or irregularities materially affected her substantial rights." *Id*. at ___. "The trial court thus did not abuse its discretion by denying plaintiff's motion for a new trial or evidentiary hearing." *Id*. at ___.

Shareholder Oppression – Statute of Limitations

MCL 450.1489 is the shareholder oppression statute—"MCL 450.1489(1)(a) through (e) delineate forms of equitable relief, whereas MCL 450.1489(1)(f) is the only subsection that pertains to damages and the only subsection that expressly contains a limitations period." *Turner v J & J Slavik, Inc*, ___ Mich App ___, ___ (2026). "The six-year period of limitations in MCL 600.5813 provides a shareholder an appropriate amount of time to produce proof of a pattern of oppressive conduct and seek [equitable] relief pursuant to" MCL 450.1489(1)(a)-(e); however, claims under MCL 450.1489(1)(f) "seeking damages are subject to a three-year limitations period from accrual and a two-year limitations period from discovery." *Turner*, ___ Mich App at ___ (cleaned up). In this case, "[d]efendants argue that the trial court failed to apply the proper statute of limitations provided under MCL 450.1489(1)(f) to plaintiff's shareholder oppression claim"; however, "plaintiff sought, and the trial court ordered, the purchase of his shares at fair value by defendants pursuant to MCL 450.1489(1)(e), which . . . is an equitable remedy." *Turner*, ___ Mich App at ___. "While defendants contend that plaintiff's request for damages, in conjunction with equitable relief, indicates that the shortened limitations period of MCL 450.1489(1)(f) governed plaintiff's claim," "the fact that [MCL 450.1489(1)(f)] allows a court to award money damages, or the fact that the plaintiff sought damages in this action, does not change [the] conclusion regarding the equitable nature of a [MCL 450.1489] claim." *Turner*, ___ Mich App at ___ (cleaned up). "Rather, these money damages are only one remedy available to a court in granting the relief it deems appropriate after a shareholder establishes a claim of oppression, and courts are free under the language of the statute to grant relief as it considered appropriate, or none at all, even if the plaintiff were to establish his claim of oppression." *Id*. at ___ (cleaned up). "As the trial court determined that a forced buyout under MCL 450.1489(1)(e) was an appropriate remedy, it follows that the statute of limitations under MCL 600.5813 applied to plaintiff's claim." *Turner*, ___ Mich App at ___. "Further, considering that it was practically impossible to award damages in this case because of defendants' spoliation of evidence, it would be nonsensical to apply the limitations period set forth in MCL 450.1489(1)(f), when no such damages were awarded." *Turner*, ___ Mich App at ___. "Barring similarly situated plaintiffs from obtaining equitable relief by applying the limitations period in MCL 450.1489(1)(f) to their claims would also be contrary to the purpose of the statute, which is to enable shareholder recovery." *Turner*, ___ Mich App at ___. "In light of the foregoing, the trial court applied the proper statute of limitations to plaintiff's shareholder oppression claim." *Id*. at ___ (further finding that although "the trial court included facts preceding [the commencement of the relevant statutory period] in its opinion, judgment, and order," "because the events giving rise to the decades-long litigation predated the statutory period, those details were necessary to provide critical context for the parties' present dispute," and "the court delineated which of defendants' improper acts within the statutory period constituted shareholder oppression").

Legislative Activity:

No activity.

Criminal Topics

Court Activity:

Adjournment – Hearing Impairment

Under MCR 2.503(B), "[i]f a party requests to adjourn temporarily a trial or hearing, then the motion must be based on good cause and state the reason for it unless the trial court allows otherwise." *People v McKinney*, ___ Mich App ___, ___ (2026). In this case, "[d]efendant requested an adjournment based on his inability to hear during jury selection." *Id*. at ___. "On learning of defendant's difficulty in hearing jury selection, the trial court rearranged the courtroom, witnesses were told to speak up and look at defendant

when testifying, and the jury was notified of defendant's hearing impairment." *Id*. at ___. "When the trial court asked defendant if these measures helped, defendant told the trial court that he had 'no problem hearing' with the trial court's modified arrangement, and he did not further notify the trial court that he was unable to hear or understand the remaining proceedings." *Id*. at ___. "Because defendant has not shown that he was prejudiced after his request for adjournment was denied, the trial court did not abuse its discretion in denying the adjournment." *Id*. at ___ (further finding that as to defendant's related constitutional claim, "[d]espite defendant's lack of access to a functioning hearing aid, defendant was capable of meaningfully participating in his trial such that his due-process rights were not violated").

Felony Sentencing – Nonmandatory Parolable Life Sentence for 20-Year-Old Defendant and Cruel or Unusual Punishment

"There is no binding precedent that requires relief under article 1, § 16 of [the Michigan] Constitution of 1963 for a defendant convicted of second-degree murder who committed the murder when she was 20 years old and received an individualized (not mandatory) sentence of parolable life as a consequence." *People v Sykes*, ___ Mich App ___, ___ (2026). In this case, "[d]efendant, when she was 20 years old, was involved in a shooting which resulted in two deaths," and was found "guilty of two counts of second-degree murder and sentenced . . . to serve two concurrent parolable life sentences." *Id*. at ___. In her second motion for relief from judgment, defendant argued that her sentence was cruel or unusual, but "[t]he trial court denied defendant's motion," concluding "that the law presently in effect does not entitle [d]efendant to the relief sought in the [m]otion." *Id*. at ___ (quotation marks omitted). "[D]efendant does not point to any mental or physical condition of which she, herself, suffers as justification for a lighter sentence," and instead seeks "blanket relief under article 1, § 16, to any 20-year-old who, like defendant, commits murder and receives a nonmandatory sentence of parolable life as a consequence"—"[f]rom a factual standpoint, defendant grounds her entire appellate claim on the bare fact that she was 20 years old when she participated in second-degree murder." *Sykes*, ___ Mich App at ___. Accordingly, "there is nothing in the record . . . upon which a court could conclude that our Legislature, by enacting MCL 750.317, or the trial judge, by sentencing defendant to parolable life rather than a term of years, acted in an unconstitutionally cruel or unusual manner under Michigan's Constitution of 1963, art 1, § 16," and "[t]he trial court did not reversibly err by denying defendant's motion." *Sykes*, ___ Mich App at ___.

Felony Sentencing – Proportionality

"A sentence must be proportionate to the seriousness of the circumstances surrounding the offense and the offender," and "when sentencing, the trial court should consider the reformation of the offender, the protection of society, the discipline of the offender, and the deterrence of others from committing the same offense." *People v McKinney*, ___ Mich App ___, ___ (2026) (cleaned up). In this case, "[d]efendant was given a within-guidelines sentence of 36 months to 300 months" for his conviction of being a prisoner in possession of a weapon. *Id*. at ___. "[D]efendant argues that he is entitled to resentencing because his sentence is unreasonably harsh and disproportionate"; however, this sentence "was reasonable and proportionate given defendant's actions." *Id*. at ___. "Defendant struck the cell door repeatedly with the weapon and threatened multiple officers," and "[w]hen the officers responded to the cell, defendant was in a defensive stance and resisted the officers who escorted him out of the cell." *Id*. at ___. "Defendant's possession and actions with the weapon were sufficiently serious to justify his sentence." *Id*. at ___. "As for defendant, he had almost fifty prior convictions in addition to dozens of misconduct citations during his time in prison." *Id*. at ___. "Although defendant has faced difficult life circumstances, including hearing challenges, these do not excuse or mitigate his actions here." *Id*. at ___. "Defendant's repeated behavior of criminality, even while in prison, indicates that reformation is unlikely." *Id*. at ___. "Despite this, the trial court's sentence was tailored to deter defendant from performing these actions again." *Id*. at ___. "If it does not deter defendant, then the sentence will at least deter other prisoners from possessing weapons and acting similarly to how defendant did in this instance, thereby protecting other prisoners and officers." *Id*. at ___. "Therefore, the trial court's sentencing decision was proportionate to defendant's history and the serious nature of his offense in this case." *Id*. at ___. "Given the reasonable sentence, the trial court did not abuse its discretion." *Id*. at ___.

Jury Instructions – Weapon-Possession Crimes and Momentary Possession Defense

"Under MCL 800.283(4), a prisoner shall not have unauthorized possession or control of a weapon or other implement which may be used to injure another person"; "MCL 800.283(4) does not require a particular mental state beyond the intent to perform the physical act, i.e., possessing a weapon, which makes it a general intent crime." *People v McKinney*, ___ Mich App ___, ___ (2026). "[T]he defense of 'momentary possession' is a claim that the defendant possessed the weapon with the intent of delivering the weapon to the police or other authority as soon as possible"; however, "'momentary possession' is not a defense to weapon-possession crimes in Michigan." *Id*. at ___. "This case arose when defendant was transferred from segregation into a new cell with another inmate"—"[a]fter the transfer, a corrections officer heard banging from defendant's cell and looked inside the cell to see defendant holding a lock inside of a sock." *Id*. at ___. "Not only was defendant holding the combined item, but an officer testified that defendant was 'in a defensive stance whacking the window' with the item." *Id*. at ___. "Multiple officers responded to defendant's cell and drew their tasers on defendant, who held the combined object and appeared to be in a position to swing it." *Id*. at ___. "Defendant was charged with being a prisoner in possession of a weapon, MCL 800.283(4)," but "claimed that he found the lock inside of the sock within a pile of clothes in the cell after he was transferred." *McKinney*, ___ Mich App at ___. "Although defendant contended that he was attempting to turn over the lock and sock to the officers, he also admitted that he picked up the items and had yelled, kicked, and banged on the door to attract attention." *Id*. at ___. Defendant "argues that the trial court erred by not instructing jurors on a defense of 'momentary possession'"; however, "as a general-intent crime, defendant only needed to intend possession of the weapon to be guilty of prisoner in possession," and "the claim of 'momentary possession' is inapplicable to the crime of prisoner in possession of a weapon." *Id*. at ___. "The trial court denied defendant's request for the jury instruction on the defense of 'momentary possession,' correctly reasoning that such instruction would require an additional element of intent not provided under the statute"; "[t]hus, the trial court did not err by declining to provide defendant's requested jury instruction." *Id*. at ___.

Resisting and Obstructing – Constitutionality

"MCL 750.81d(1) provides that an individual who obstructs a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony"—"obstructing an officer through a knowing failure to comply with a lawful command requires some physical refusal to comply with a command, as opposed to a mere verbal statement of disagreement." *People v Van Net*, ___ Mich App ___, ___ (2026) (cleaned up). In this case, defendant "engaged in conduct protected by the First Amendment by videotaping a lawful traffic stop of another driver"—"[b]ut in so doing, he ignored an officer's lawful commands to move away from the stop to allow law enforcement officials space to safely perform their duties." *Id*. at ___. "A jury convicted defendant of obstructing a police officer and on appeal, he mainly contends that conviction violated his First Amendment rights"; specifically, "defendant contends his obstruction conviction under MCL 750.81d is constitutionally infirm—he claims that the statute sweeps in speech and press conduct protected by the United States and Michigan Constitutions, is otherwise vague for lack of fair notice and definitiveness, and that his right to film the traffic stop trumped the troopers' ability to control the scene." *Van Net*, ___ Mich App at ___. While "there is a constitutional right to film governmental officials engaged in their duties in a public place, including officers performing their responsibilities," "this right is not unlimited"—"a police command to an individual exercising his or her right to film a police stop is lawful if it imposes a reasonable time, place, and manner restriction that is justified without regard to content, narrowly tailored to serve a significant governmental interest." *Id*. at ___ (quotation marks and citation omtted). Regarding defendant's facial challenge, "when read in the appropriate context, [MCL 750.81d] does not allow for a conviction solely on the basis of constitutionally protected speech and thus is not facially overbroad." *Van Net*, ___ Mich App at ___. Regarding defendant's as-applied challenge, "[g]iven the totality of the circumstances of this traffic stop, [the trooper's] orders were reasonable and narrowly tailored to serve a significant government interest: the orders permitted officers to efficiently and safely complete a traffic stop and gave defendant a vantage point from which to meaningfully record police activities." *Id*. at ___. Because the trooper's "commands did not violate defendant's First Amendment rights," "defendant's as-applied overbreadth challenge to MCL 750.81d fails for lack of error, let alone one that is plain." *Van*

Net, ___ Mich App at ___. Regarding defendant's void for vagueness challenge, MCL 750.81d's "obstruction proscription for failing to comply with a lawful command provides the requisite fair notice," and "[b]y requiring physical interference and restricting obstruction to 'lawful commands,' . . . law enforcement officials [could not] arbitrarily enforce MCL 750.81d." *Van Net*, ___ Mich App at ___. "In sum, MCL 750.81d is not vague, and defendant cannot establish error, let alone a plain one, meriting relief." *Van Net*, ___ Mich App at ___. "For these reasons, defendant's overbreadth and void-for-vagueness challenges to his conviction for obstructing a police officer under MCL 750.81d(1) fail." *Van Net*, ___ Mich App at ___.

Legislative Activity:

No activity.