

Order

Michigan Supreme Court
Lansing, Michigan

May 31, 2024

Elizabeth T. Clement,
Chief Justice

166339

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 166339
COA: 358580
Presque Isle CC: 20-093153-FC

DARYL WILLIAM MARTIN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 14, 2023 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), except that the appellant's brief and appendices, if any, are to be filed within 90 days of the date of this order. The parties shall address whether: (1) lifetime electronic monitoring, when imposed without an individualized assessment of the defendant's recidivism risk and without providing a mechanism for removing the monitoring requirement, constitutes cruel and unusual punishment under US Const, Am VIII or cruel or unusual punishment under Const 1963, art 1, § 16, see generally *People v Betts*, 507 Mich 527 (2021), but see *People v Hallak*, 310 Mich App 555, 577 (2015), rev'd in part on other grounds 499 Mich 879 (2016); (2) lifetime electronic monitoring constitutes cruel and/or unusual punishment as applied in this case; and (3) lifetime electronic monitoring constitutes an unreasonable search in violation of US Const, Am IV or Const 1963, art 1, § 11, see *State v Grady*, 372 NC 509 (2019), and *Park v State*, 305 Ga 348 (2019), but see *Hallak*, 310 Mich App at 581.

We further direct the Clerk to schedule the oral argument in this case for the same future session of the Court when it will hear oral argument in *People v Kardasz* (Docket No. 165008).

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys 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.

May 31, 2024

Clerk