

Order

Michigan Supreme Court
Lansing, Michigan

September 27, 2023

Elizabeth T. Clement,
Chief Justice

165620

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: 165620
COA: 358922
Macomb CC: 2018-003669-FC

CARL THOMAS MASI,
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the March 9, 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), addressing: (1) whether a child complainant's act of viewing pornography during the course of sexual abuse by a relative constitutes "sexual conduct" for purposes of the rape-shield statute, MCL 750.520j; (2) whether the rape-shield statute precludes the admission of evidence that the child complainants were subjected to prior sexual abuse, to explain their age-inappropriate sexual knowledge, unless the defendant proves that another person was convicted of criminal sexual conduct involving the complainants, and the facts underlying the previous conviction are significantly similar to the charged conduct to be relevant to the instant proceeding, see *People v Morse*, 231 Mich App 424, 437 (1998); and (3) whether barring evidence of the complainants' prior sexual abuse and of a complainant's viewing of pornography during the course of prior sexual abuse would constitute a denial of the defendant's constitutional right to confrontation or the right to present a defense, see *People v Arenda*, 416 Mich 1 (1982).

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.

September 27, 2023

Clerk