Order

Michigan Supreme Court
Lansing, Michigan

June 18, 2026

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: 165185
COA: 358043
Kalamazoo CC: 1993-000756-FC

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

WILLIAM EDWARD NEILLY,
Defendant-Appellant.

By order of January 26, 2026, the United States Supreme Court vacated this Court's July 8, 2024 judgment and remanded this case to this Court for further consideration in light of *Ellingburg v United States*, 607 US 163 (2026). On order of the Court, the application for leave to appeal the November 10, 2022 judgment of the Court of Appeals is again considered, and it is GRANTED. The parties shall address: (1) whether, in light of the decision in *Ellingburg*, restitution constitutes punishment for purposes of the Ex Post Facto Clauses of the United States Constitution, US Const, art I, § 10, and the Michigan Constitution, Const 1963, art 1, § 10; (2) whether application of the current versions of the restitution statutes rather than the statutes in effect when defendant was convicted "disadvantage[d]" him for purposes of the Ex Post Facto Clauses, *Weaver v Graham*, 450 US 24, 29 (1981); see also *People v Lueth*, 253 Mich App 670, 693 (2002); and (3) if there is an Ex Post Facto Clause violation, what is the appropriate remedy? The time allowed for oral argument shall be 20 minutes for each side. MCR 7.314(B)(1).

We further ORDER the Kalamazoo Circuit Court, in accordance with Administrative Order 2003-03, to determine whether defendant is indigent and, if so, to appoint the State Appellate Defender Office, if feasible, to represent defendant in this Court. If this appointment is not feasible, the trial court shall, within the same time frame, appoint other counsel to represent defendant in this Court. Defendant's brief is due within 42 days after the date of the order appointing counsel or of the ruling that defendant is not entitled to appointed counsel.

Amici who previously appeared in this case are invited to file supplemental briefs amicus curiae. The Criminal Defense Attorneys of Michigan is invited to file a brief amicus curiae. Other persons or groups interested in the determination of the issues presented in this case who are not exempt from the motion requirement under MCR 7.312(H) may move the Court for permission to file briefs amicus curiae.

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.

June 18, 2026

Clerk

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