

Order

Michigan Supreme Court
Lansing, Michigan

November 10, 2022

Bridget M. McCormack,
Chief Justice

164080

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

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 164080
COA: 352180
Kent CC: 18-005805-FH

JOSEPH RYAN-EVERETT GOBRICK,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 21, 2021 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

WELCH, J. (*concurring*).

I agree with the Court’s decision to deny leave to appeal. I write separately to address the Court of Appeals’ use of gender-neutral pronouns in the majority opinion after defendant requested to be identified using the pronoun “they.” Our vocabulary and the ways that we refer to each other has changed through the decades. While at one point a judge might have said “thou shalt respect all thy litigants,” we now say “you shall respect all your litigants.” And while the archaism “Hear ye, hear ye” persists for the court crier, we no longer use the term “ye”—rather than you—to refer to more than one person. Instead, whether “you” refers to one person or a group depends upon the context—something readers of the English language understand and are able to decipher.

Judge BOONSTRA’s concurring opinion sets forth his belief that the majority was “altering its lexicon” in a manner contrary to what, in his view, society understands to be an “immutable truth.” *People v Gobrick*, unpublished per curiam opinion of the Court of Appeals, issued December 1, 2021 (Docket No. 352180) (BOONSTRA, J., concurring), p 1. But lexicographers and the authors of English style guides have long changed practices to

reflect the evolution of the English lexicon. This is hardly controversial.¹ As society evolves so does its language. While there might be instances where adoption of a novel change in the English lexicon could cause confusion, this was not such a situation. The Court of Appeals majority provided a detailed explanation in a footnote as to how and why it was using a gender-neutral pronoun in its opinion. The Court of Appeals' simple use of a footnote and gender-neutral pronoun demonstrates that words matter and that a small change to an opinion, even if unrelated to the merits, can go a long way toward ensuring our courts are viewed as open and fair to all who appear before them.

MCCORMACK, C.J., joins the statement of WELCH, J.

¹ While Judge BOONSTRA claims in his concurrence that the “ ‘wokeness’ of the day” was the motivation for the court’s use of a gender-neutral pronoun, it is interesting to note that in 1994 the United States Supreme Court easily avoided using gendered pronouns in a decision involving a transgender party. See *Farmer v Brennan*, 511 US 825 (1994) (a case concerning a transgender inmate who alleged discrimination based on petitioner’s transgender status). In that opinion, Justice Souter avoided the use of gendered pronouns even in the absence of an explicit request for such an accommodation. Further, while not as prevalent in our lexicon as it is today, the use of “they” as a singular pronoun extends back to as early as the 1300s. See, e.g., Merriam-Webster.com Dictionary, *Singular ‘They’* <<https://www.merriam-webster.com/words-at-play/singular-nonbinary-they>> (accessed November 3, 2022) [https://perma.cc/TU4G-44FA]; Professor Dennis Baron, Oxford English Dictionary Blog, *A Brief History of Singular ‘They’* <https://public.oed.com/blog/a-brief-history-of-singular-they/> (posted September 4, 2018) (accessed November 3, 2022) [https://perma.cc/8486-N8UP]; Curzan, *Opinion: ‘They’ Has Been a Singular Pronoun for Centuries. Don’t Let Anyone Tell You It’s Wrong*, Washington Post (October 21, 2021) <<https://www.washingtonpost.com/opinions/2021/10/21/they-has-been-singular-pronoun-forever-dont-let-anyone-tell-you-its-wrong/>> (accessed November 3, 2022) [https://perma.cc/Z52D-EQR9].



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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.

November 10, 2022

Clerk