

Order

Michigan Supreme Court
Lansing, Michigan

May 29, 2026

SC: 169563
COA: 368232
Mackinac CC: 23-004360-AR

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

WALTER JOSEPH CASWELL,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the November 24, 2025 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed: (1) whether Michigan courts have jurisdiction to determine through this case whether the Mackinac Tribe of Odawa and Ojibwa Indians (the Mackinac Tribe) is a political successor in interest to a signatory of the 1836 Treaty of Washington (the 1836 Treaty), see, e.g., *Washington v Washington State Commercial Passenger Fishing Vessel Ass'n*, 443 US 658, 675 (1979); *United States v Michigan*, 471 F Supp 192 (WD Mich, 1979); (2) if Michigan courts have jurisdiction to determine whether the Mackinac Tribe is a treaty tribe through this case, whether they should refrain from doing so for other reasons, see, e.g., *Little Traverse Bay Bands of Ottawa Indians v Michigan*, unpublished opinion of the United States District Court for the Western District of Michigan, issued August 3, 1988 (Case No. G87-118) (requiring a tribe without treaty-tribe status to exhaust administrative remedies before bringing an action to enforce alleged treaty rights); (3) if Michigan courts should decide whether the Mackinac Tribe is a treaty tribe through this case, whether the trial court applied the correct evidentiary burden, see *Greene v United States*, 996 F2d 973 (CA 9, 1993), *People v Caswell*, 336 Mich App 59, 77 (2021); (4) whether, based on the evidence presented to the district court, the Court of Appeals correctly affirmed the lower courts' determination that the Mackinac Tribe is a political successor in interest to a signatory of the 1836 Treaty, see, e.g., *Caswell*, 336 Mich App at 75, 78; *United States v Washington*, 641 F2d 1368, 1371 (CA 9, 1981). The time allowed for oral argument shall be 20 minutes for each side. MCR 7.314(B)(1).

We further ORDER the Mackinac Circuit Court, in accordance with Administrative

Order 2003-03, to determine whether defendant is indigent and, if so, to appoint Jana D. Mathieu, 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 35 days after the prosecution’s brief is served on defendant or within 35 days of an order appointing counsel for representation in this Court or of a ruling that defendant is not entitled to appointed counsel.

Amici who appeared at the application stage are invited to file supplemental briefs 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.



p0526

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.

May 29, 2026


Clerk