

MSC Order List: April 29, 2011

3. May 2011 By Layla Kuhl

The Michigan Supreme Court denied two applications, directed the clerk to schedule oral argument on whether to grant the application in *People v Laidler* and reversed the Court of Appeals in *Vinson v ABN Amro Mortgage Group Inc* in lieu of granting leave to appeal.

In *People v Gregg*, Justice Kelly dissented from the denial of the application stating that she would vacate the defendant's sentence because the trial court erroneously punished defendant for exercising his constitutional and statutory rights by assessing 10 points for OV 19 (interference with the administration of justice). Defendant refused to submit to a chemical breath test. He eventually pled guilty to OUIL-third. MCL 257.625c provides that a person who operates a vehicle upon a public highway is considered to have given implied consent to chemical tests of his or her blood, breath, or urine. Justice Kelly opined that this implied consent is revocable under the protections afforded by the Fourth Amendment, just like consent to any other search.

In *People v Laidler* the Court asked the parties to address "whether, for purposes of offense variable 3, Dante Holmes was a victim and, even if Holmes was not a victim, whether the defendant could appropriately be scored 100 points for offense variable 3 on the theory that 'death result[ed] from the commission of a crime and homicide is not the sentencing offense.'" See MCL 777.33(2)(b).

In lieu of granting leave to appeal, the Court reversed the judgment of the Court of Appeals in *Vinson v ABN Amro Mortgage Group, Inc* and remanded that case to the Oakland County Circuit Court for further proceedings. In this adverse employment action case, the Court determined that the plaintiff had created a prima facie case of discrimination under the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq* because plaintiff's deposition testimony regarding whether defendant took any adverse action against her because of her disability was ambiguous and because the subject of reasonable accommodation was not addressed in her deposition. The Court also noted that defendant failed to provide any evidence to support the circuit court's alternative basis for granting summary disposition.