

MSC Order List: January 13, 2011

15. January 2011 By Sarah Lindsey

On January 13, 2011, the Michigan Supreme Court denied ten applications for leave to appeal, denied five motions for reconsideration, and dismissed another motion for reconsideration in accordance with the parties' stipulation. The Court also took substantive action in one criminal and three civil cases, held another case in abeyance and granted motions to file briefs *amicus curiae* in two cases. Those cases are discussed after the jump.

In [People v. Darr, No. 141610](#), the Court directed the Hillsdale County Prosecuting Attorney to answer, within 28 days, whether the trial court abused its discretion and violated the defendant's Sixth Amendment right to counsel when it denied appellate counsel's request to withdraw when counsel claimed that there was an actual conflict of interest in representing both the defendant and his co-defendant on appeal.

In [Healing Place, Ltd. v. Farm Bureau Mutual Ins. Co., No 141753](#), the Court reversed the portion of the Court of Appeals' decision that reversed the trial court's grant of summary disposition concerning adult foster care services, for the reasons stated in the Court of Appeals' partial dissenting opinion. Also in lieu of granting leave to appeal, in [Crown Enterprises Inc. v. City of Romulus, No. 141692](#), the Court reversed the judgment of the Court of Appeals on the issue of abandonment of an easement for the reasons stated in the Court of Appeals' concurring opinion. In addition, the Court reinstated the decision of the trial court that the plaintiff had an easement right, that the defendant interfered with that right without notice and an opportunity to be heard and that the plaintiff's due process rights were violated. Finally, the Court remanded the case to the Court of Appeals for consideration of whether an award of attorney fees under 42 U.S.C. § 1988 was reasonable under the circumstances.

In [Ader v. Delta College Bd. of Trustees, No. 141540](#), the Court vacated the judgment of the Court of Appeals and remanded the case for reconsideration in light of [Lansing Schools Educ. Ass'n v. Lansing Bd. of Educ.](#), 487 Mich. 349 (2010). Justice Young dissented, explaining that he adhered to the dissent in [Lansing Schools](#), which claimed that Michigan's standing doctrine is constitutionally based and that [Lansing Schools](#) provides no meaningful standard to enforce the constitutional limits. Justices Corrigan and Markman joined the dissent.

The Court held [People v. Fackelman, No. 139856](#), in abeyance pending the U.S. Supreme Court's resolution of Michigan v. Bryant, cert granted 130 S. Ct. 1685 (2010). The Court also granted motions to file briefs *amicus curiae* in [Pollard v. SMART, No. 140322](#) and [Hamed v. Wayne County, No. 139505](#). Finally, in [McCarthy v. Sosnick, 141439-40](#), the Court granted the motion for consideration by the full Court of the motion for disqualification of the entire bench, and denied the motion for disqualification. Our earlier post on the disqualification motion can be found [here](#).