

MSC Orders: March 12, 2010

14. March 2010

On Friday, March 12, 2010, the Michigan Supreme Court ordered oral argument on the application in three criminal cases, dismissed two cases on the stipulation of the parties, resolved one case argued earlier this term (addressed in a separate post), sought additional information from the Judicial Tenure Commission (addressed in a separate post), and accepted a question certified by the United States District Court for the Eastern District of Michigan.

In *Waeschle v. Oakland County Medical Examiner*, No. 140263, the Court agreed to resolve the question of whether a decedent's next-of-kin has a property interest in the decedent's brain which is removed from a corpse during an autopsy. This unusual question arises from a putative class action pending in the United States District Court for the Eastern District of Michigan against the Oakland County Medical Examiner and a putative defendant class of all Michigan counties. The Eastern District initially resolved the question in favor of the plaintiff. On appeal, the Sixth Circuit reversed and ordered the Eastern District to certify the question to the Michigan Supreme Court. The Michigan Supreme Court granted leave to address the question over the dissents of Justices Weaver and Young who question whether the Court has the constitutional authority to address certified questions.

The Court grants MOAs in the following cases:

- *People v. Szalma*, No. 140021: The Court of Appeals held double jeopardy did not attach to the trial court's directed verdict in favor of the defendant because the trial court failed to consider all of the evidence in the light most favorable to the prosecutor. The Court of Appeals' opinion is [here](#).
- *People v. Camp*, No. 139984: The Court ordered the parties to address at oral argument "whether the Court of Appeals was correct in ruling that the defendant did not consent to the mistrial and that the mistrial was not supported by manifest necessity." The Court of Appeals' decision reversing the defendant's criminal-sexual-conduct conviction on double-jeopardy grounds is [here](#). The Court invited the Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan to submit amicus briefs.
- *People v. Gayheart*, No. 139664: The Court ordered the parties to address whether the defendant preserved the issue of jurisdiction where the defendant, in the presence of his counsel, agreed to the jurisdiction of the court during a pretrial proceeding. The Court of Appeals' decision affirming the defendant's conviction of murder and denying his claim that the Michigan courts lacked jurisdiction because the crime was committed in Indiana is [here](#).