

## MSC Opinion: Child pornography found in a computer’s “temporary internet files” could support a conviction for knowing possession of child sexually abusive material

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29. July 2010 By Jason Byrne

On July 27, 2010, the Michigan Supreme Court published its consolidated opinion in [People v. Flick, Case No. 138258](#), and [People v. Lazarus, Case No. 138261](#). Justice Corrigan wrote for the 4-member majority affirming the binding over of two criminal defendants for trial on the charge of knowing possession of child sexually abusive material, even though the material in question was in the temporary internet files of the defendants’ computers. The majority found that, coupled with evidence that the defendants had purchased and downloaded the material, they had taken affirmative action to exercise dominion or control over the material, meaning that the defendants had actual or constructive possession of the materials. In a dissent authored by Justice Cavanagh, three members of the court found that the prosecution must establish not only power to exercise dominion and control over the material, but also the intent to exercise such control. Thus, the minority reasons that simply purchasing and viewing such material on the internet is insufficient to support a charge of knowing possession without evidence that a defendant intended to do something (or did something) with the material, other than just view it on the internet, where the computer and not the user, created a temporary internet file.