

MSC Order List: July 15, 2011

16. July 2011 By Matthew Nelson

The Michigan Supreme Court took substantive action in three cases and denied leave to appeal in two.

In *People v. Rao*, the Court ordered oral argument on the application for leave to address whether x-rays of the alleged victim of child abuse taken after the defendant's conviction are new discovered evidence that would warrant a new trial. The alleged victim was adopted in India by the defendant. When the victim came to the United States, she fell within the lowest percentiles for height and weight. A year later, the defendant was accused of beating her adopted daughter breaking numerous bones. The defendant argued that the alleged victim suffered from a bone disease that was responsible for the broken bones. The jury convicted the defendant. The Court of Appeals, in a divided [decision](#), concluded that the x-rays showing additional bone injuries after the alleged victim was removed from her adoptive home was new evidence that could warrant a new trial.

The Court remanded *In re Parole of Paquette* to the Court of Appeals as on leave granted and direct the Court of Appeals to decide the case on an expedited basis. The Court of Appeals had denied the application for leave to appeal "for lack of merit in the grounds presented."

In *People v. Jex*, the Court summarily partially reversed and remanded the case. The defendant pled no contest to home invasion, but later asserted that he was a co-lessee of the subject home. The Court of Appeals concluded that this was a jurisdictional deficiency in the defendant's plea. The Michigan Supreme Court explained that this deficiency was not jurisdictional because it did not implicate the State's ability to charge the defendant. The Court remanded the case to the Court of Appeals to determine whether the defendant has good cause for failing to raise his co-lessee status earlier and whether the defendant will suffer actual prejudice.