

MSC Order List: May 21, 2010

24. May 2010 By Matthew Nelson

The Michigan Supreme Court resolved three cases by peremptory orders reversing the Court of Appeals' decisions and ordered oral argument on the application for two cases in its next term.

The Michigan Supreme Court reversed the Court of Appeals' decision in *Kachudas v. Invaders Self Auto Wash*, No. 139794. In *Kachudas*, the plaintiff slipped and fell at an auto wash on a winter day and sued the company that operated the facility. The Court of Appeals [concluded](#) that the open-and-obvious defense was not available to the defendant because the plaintiff's claims sounded in general liability and not premises liability. Four justices of the Michigan Supreme Court disagreed, explaining that the plaintiff alleged injury because of a condition of the land and thus the plaintiff's claims were for premises liability. The Court further found that a person of average intelligence would anticipate that spraying water on a day with average temperatures between 11 and 24 degrees would likely lead to the formation of ice. Accordingly, the Court also concluded that the danger was open and obvious. The Court peremptorily reversed the Court of Appeals' decision, and reinstated the trial court's grant of summary disposition to the defendant. Chief Justice Kelly and Justices Cavanagh and Hathaway dissented.

The Court apparently decided to revisit the open-and-obvious doctrine by ordering oral argument on the application in *Ahola v. Genessee Christian School*, No. 140447. The Court of Appeals, in a divided opinion, [concluded](#) that faults to the defendant school's steps that caused the plaintiff's injury were not open and obvious despite the plaintiff's navigation of those steps several hours earlier because the steps were unlit at the time of the injury.

The Court resolved *People v. Camp*, No. 139984, in a unanimous decision reversing the Court of Appeals. The Court's peremptory order explained that double jeopardy concerns do not attach where a defendant consents to a mistrial.

The Court peremptorily reversed the the Court of Appeals' decision in *People v. Perreault*, No. 140630. The Court adopted the reasoning of the Court of Appeals' [dissent](#) which concluded that a school assistant principal had a reasonable suspicion to search the defendant's car based on an anonymous tip and the totality of the surrounding circumstances. Our earlier post on the case is [here](#).

The Court ordered a mini-oral argument in *Idalski v. Schwedt*, No. 139960, to determine whether to reconsider the Court's decision in *Rory v. Continental Ins.*, 473 Mich. 457 (2005). In *Rory*, the Court concluded that a contractually shortened limitation period of one year was reasoning.

The Court denied leave to appeal in four cases and dismissed another case on the stipulation of the parties.