

MSC Order List: June 25, 2010

26. June 2010 By Matthew Nelson

The Michigan Supreme Court took substantive action in six cases:

In re P.M. (Department of Human Services v. Mullins), No. 140983: The Court granted oral argument on the application.

Iron Mountain Information Management, Inc. v. Naftaly, Nos. 140817-140824: The Court granted leave to appeal limited to the issue of whether the circuit courts have subject-matter jurisdiction over appeals from a decision of the state tax commission regarding property classification. The Court ordered that the case be argued and submitted with *Midland Cogeneration Venture Ltd. v. Naftaly*, No. 140814.

Midland Cogeneration Venture Ltd. v. Naftaly, No. 140814: The Court granted leave to appeal to address the same issue as *Iron Mountain*.

People v. McCauley, No. 140422: The Court ordered oral argument on the application to address whether a defendant can raise a challenge to the effective assistance of his counsel during the plea-bargaining process where the defendant rejected the plea offer and subsequently received a fair trial, and if so, what remedies should be available to the defendant. The Court invited amicus briefs from the Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan. Our post on the Court of Appeals' decision conditionally vacating the defendant's sentence is [here](#).

People v. Breidenbach, No. 140153: The Court ordered oral argument on the application to address three issues: (1) whether the Court should reconsider the rule of *People v. Helzer*, 404 Mich. 410 (1978), that a determination of sexual delinquency is a separate, alternative form of sentencing rather than a penalty enhancement; (2) whether the defendant waived or forfeited the right to a second jury's determination of his status as a sexual delinquent; and (3) whether any error was harmless or harmless beyond a reasonable doubt. Again, the Court invited the Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan to submit amicus briefs.

Friend v. Friend, No. 139165: In lieu of granting leave to appeal after having heard argument on the application, the Court remanded the case to the Houghton County Circuit Court for clarification as to whether the alimony award was alimony in gross or periodic alimony. The Court further ordered that as a precondition of the trial court clarifying the nature of its award, the plaintiff purge herself of any outstanding findings of contempt within 90 days. The Court denied leave to appeal on all other issues, including whether the Court should adopt the fugitive-

disentitlement doctrine. Justices Corrigan, Markman, and Young dissented and would have applied the fugitive-disentitlement doctrine and condition consideration of the appeal on plaintiff's compliance with trial court's orders.

The Court also denied leave to appeal in six cases.