

STATE OF MICHIGAN
IN THE COURT OF APPEALS

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

vs

Court of Appeals
No.

JOSEPH JACOB WEEKLY,

Defendant-Appellee.

Lower Court No. 11-009841-01-FH

The People's Application for Leave to File
Emergency Interlocutory Appeal
with Appendices A through C

Kym L. Worthy
Prosecuting Attorney
County of Wayne

Timothy A. Baughman
Chief of Research
Training and Appeals

Thomas M. Chambers (P 32662)
Assistant Prosecuting Attorney
12th Floor, 1441 St. Antoine
Detroit, Michigan 48226
Phone: (313) 224-5749

RECEIVED
COURT OF APPEALS
DETROIT OFFICE
OCT 3 11 4:17

Table of Contents

	Page
Index of Authorities.....	ii
Index of Appendices.....	iii
Statement of Jurisdiction.....	1
Statement of Question Involved.....	2
Procedural History, Order Being Appealed, Relief Being Requested, and Why the People Cannot Wait for a Final Judgment.....	3
A) Procedural History.....	3
B) Order Being Appealed.....	3
C) Relief Being Requested.....	3
D) Why the People Cannot Wait for a Final Judgment.....	4
Statement of Facts.....	5
Argument.....	10
Where the trial court found that based on the prosecution’s proofs, a rational trier of fact could find that the prosecution had proven what it needed to prove to show gross negligence pursuant to CJI2d 16:18, particularly CJI2d 16:18(4), that “the defendant [had] failed to use ordinary care to prevent injuring another when, to a reasonable person, it must have been apparent that the result was likely to be serious injury,” the trial court legally erred in finding that the prosecution had not proven willful disregard of the results to others that might follow an act or failure to act.....	10
Relief.....	13

Index of Authorities

Michigan Cases

People v Datema,
448 Mich 585; 533 NW2d 272 (1995).....10

Index of Appendices

Appendix A	Order Being Appealed
Appendix B	Order Granting Sty of Proceedings
Appendix C	Trial Court Docket Entries

Statement of Jurisdiction

The People are seeking leave to interlocutorily appeal on an emergency basis an Order entered on October 3, 2014, by the Honorable Cynthia Gray Hathaway, Judge of the Third Judicial Circuit (Wayne County) Court, Criminal Division, which granted Defendant Joseph Jacob Weekly's motion for directed verdict as to Count I of the Information in this case that charged Defendant with involuntary manslaughter, in violation of MCL 750.321, and left Count II, which charged Defendant with careless, reckless, or negligent discharge of a firearm causing death, in violation of MCL 752.861, intact.

This Court has jurisdiction of this Application pursuant to MCL 770.12(1)(a), MCR 7.205(E), and MCR 6.509(A). MCL 770.12(2) provides as follows:

2) The people of this state may take an appeal by leave in a criminal case, if the protection against double jeopardy under section 15 of article I of the state constitution of 1963 and amendment V of the constitution of the United States would not bar further proceedings against the defendant, from any of the following:

(a) A judgment or order of the circuit court or recorder's court that is not a final judgment appealable of right.

The People submit that jeopardy has not attached because while the trial court granted Defendant's motion for directed verdict, the court did not actually enter a directed verdict, as the trial court docket entries indicate, but rather, the trial court stayed the case.

A copy of the Order granting the motion for directed verdict is attached as **Appendix A**; a copy of the Order granting the prosecution's motion for stay of proceedings is attached as **Appendix**

B, and the trial court docket entries are attached as **Appendix C**. A copy of the relevant transcript is being submitted with this Application.

Statement of Question Involved

Where the trial court found that based on the prosecution's proofs, a rational trier of fact could find that the prosecution had proven what it needed to prove to show gross negligence pursuant to CJI2d 16:18, particularly CJI2d 16:18(4), that "the defendant [had] failed to use ordinary care to prevent injuring another when, to a reasonable person, it must have been apparent that the result was likely to be serious injury," did the trial court legally err in finding that the prosecution had not proven willful disregard of the results to others that might follow an act or failure to act?

The People answer yes.

Defendant would answer no.

**Procedural History,
Order Being Appealed, Relief Being Requested,
and Why The People Cannot Wait for a Final Judgment**

A) Procedural History

Defendant was charged with Count I: involuntary manslaughter, in violation of MCL 750.321, and Count II: careless, reckless, or negligent use of a firearm with death resulting, in violation of MCL 752.861.

The prosecution's proofs have all been presented, and the prosecution has rested. On October 3, 2014, Defendant made a motion for directed verdict of acquittal as to the involuntary manslaughter count, on the ground that the prosecution had not proved gross negligence, because it had not proven willful disregard, which is a requirement for a showing of gross negligence.

The trial court granted Defendant's motion for directed verdict of acquittal as to the involuntary manslaughter count, leaving intact the careless, reckless, or negligent use of a firearm with death resulting count.

B) Order Being Appealed

As noted in the People's Jurisdictional Statement and above, the People are seeking leave to interlocutorily appeal Judge Hathaway's Order of October 3, 2014, which granted Defendant's motion for directed verdict of acquittal as to the involuntary manslaughter count.

C) Relief Being Requested

The People are asking this Court to either grant leave to appeal, or reverse Judge Hathaway's Order described above, and order that the charge of involuntary manslaughter be reinstated.

D) Why the People Cannot Wait for a Final Judgment

If this matter goes to the jury on the count of careless, reckless, or negligent discharge of a firearm with death resulting only, the People's appeal would be moot.

Statement of Facts

Again, Defendant was charged with Count I: involuntary manslaughter, in violation of MCL 750.321, and Count II: careless, reckless, or negligent use of a firearm with death resulting, in violation of MCL 752.861.

The prosecution's proofs have all been presented, and the prosecution has rested. On October 3, 2014, Defendant made a motion for directed verdict of acquittal as to the involuntary manslaughter count, on the ground that the prosecution had not proved gross negligence, because it had not proven willful disregard, which is a requirement for a showing of gross negligence.

The trial court granted Defendant's motion for directed verdict of acquittal as to the involuntary manslaughter count, leaving intact the careless, reckless, or negligent use of a firearm with death resulting count. The court's reasoning was as follows:

THE COURT: The instruction on the manslaughter involuntary reads as follows:

To prove this charge, the prosecution must prove each of the following elements beyond a reasonable doubt:

First, that the Defendant caused the death of Aiyana Stanley Jones, that is, that Ms. Jones died as a result of a gunshot wound.

Second, in doing the act that causes Ms. Jones's death, the Defendant acted in a grossly negligent manner. Gross negligence means more than carelessness. It means willfully disregarding the results to others that might follow from an act or failure to act. In order to find that the Defendant was grossly negligent, the trier of fact must find each of the following things beyond a reasonable doubt:

First, that the Defendant knew of the danger to another. That is, he knew there was a situation that required him to take ordinary care to avoid injuring another.

Second, that the Defendant could have avoided injuring another by using ordinary care.

Third, that the Defendant failed to use ordinary care to prevent injuring another when to a reasonable person it must have been apparent that the result was likely to be serious injury.

The key word here in this instruction is gross negligence means willfully disregarding the results to others.

Now, as I see this instruction, I'm not really clear whether the three elements that the trier of fact would have to find, coincide with willfulness. I don't see that. So – and I also don't see that there is evidence in this case that supports, or evidence – whether it supports or not supports, I don't see the evidence that the Defendant willfully disregarded the results to others. The entire trial has basically been about the carelessness of the Defendant based on his skills.

So looking at the evidence in the light most favorable to the prosecution, there seems to be a conflict between one part of the instruction and another part of the instruction. There is no evidence in this Court's opinion that supports willfully disregarding the results to others, but the three things that the trier of fact has to look at for gross negligence really are questions for a trier of fact.

The trier of fact could decide if the Defendant knew of the danger to another, that he knew that there was a situation that required him to take ordinary care to avoid injuring another. The trier of fact can decide whether the Defendant could have avoided injuring another by using ordinary care. And the trier of fact can decide if the Defendant failed to use the ordinary care to avoid injuring another when to a reasonable person it must have been apparent that the result was likely to be serious injury.

So with this conflict I'm going to, if I am going to err, I'm going to err on the side of the defense and I'm going to grant the motion for dismissing Count One.

MR. FISHMAN: Thank you, Judge.

MR. MORAN: Your Honor, the People object to that and the People ask for a Stay before we do closing arguments so that I can talk to my supervisors upstairs about an emergency interlocutory appeal. Because it is our position that the elements have been satisfied, as the Court indicated, and the legal definition is willfulness and the jury has to decide the elements of the crime and that's what the Court instructs them. The elements, as the Court has said, are there. There is enough on this record to send this to the jury on the elements of involuntary manslaughter.

THE COURT: I think that the elements on A, B and C, are there. What is confusing is in the definition of gross negligence it says that the act must be willful, and I haven't heard – I don't know if I've heard anything about a willfulness to perform the act or failure to perform the act. I've heard carelessness.

MR. MORAN: We've heard – and we've heard lots of testimony about the standard of ordinary care, what that standard of ordinary care is, the training, the equipment, all of that stuff we've heard over and over again about what the standard of care is.

THE COURT: Right.

MR. MORAN: But the definition of gross negligence means willfully disregarding the results to others. It's defining that as being more than just carelessness or recklessness, more than just ordinary negligence. And if the Court looks at the jury instruction that defines the differences between negligence, it talks about that.

THE COURT: Right, the degree of negligence.

MR. MORAN: Right. How gross negligence is a higher degree of negligence. It is not an intentional crime. We've never said that this is an intentional crime. Gross negligence is not an intentional crime. It is a crime that occurs when someone knows better and someone knows they are supposed to do something and they don't do it, or they have an act they are supposed to perform or they don't do that act or they fail to perform an act they are supposed to perform. And that's how the court, the courts have defined gross negligence as a willful violation.

But for the jury, they have to decide the three elements of the crime. They don't decide whether it's willful or not. They decide is

it gross negligence, and the way they do is that A, B and C. And if they find A, B, and C, that means it is gross negligence, that means it is a willful violation. Because we all know the jury instructions say that you are to take everything as a whole, but you also have to look at the elements of the crime. That's all I have to prove. So if the jury decides that I proved A, B and C, they find gross negligence, that, by legal definition, is a willful violation of his obligation to act.

That's how the courts have defined gross. It's a bad jury instruction, but the –

THE COURT: Yes, that's the problem.

MR. MORAN: Yes. But the elements are clear. The elements are clear and the Court has said we have satisfied the elements and for that reason it should go to the jury.

THE COURT: I'll grant you a stay because I don't think that it will take us long to resolve this. I actually don't think that it will take more than maybe a couple of hours –

(Transcript, 10/03/14, 11-16).

Argument

Where the trial court found that based on the prosecution's proofs, a rational trier of fact could find that the prosecution had proven what it needed to prove to show gross negligence pursuant to CJI2d 16:18, particularly CJI2d 16:18(4), that "the defendant [had] failed to use ordinary care to prevent injuring another when, to a reasonable person, it must have been apparent that the result was likely to be serious injury," the trial court legally erred in finding that the prosecution had not proven willful disregard of the results to others that might follow an act or failure to act.

As can be seen in the excerpt from the transcript which is set forth in the foregoing Statement of Facts, the trial court found that the prosecution had proven what it needed to prove to show gross negligence pursuant to CJI2d 16:18, particularly CJI2d 16:18(4), that "the defendant [had] failed to use ordinary care to prevent injuring another when, to a reasonable person, it must have been apparent that the result was likely to be serious injury:"

The trier of fact could decide if the Defendant knew of the danger to another, that he knew that there was a situation that required him to take ordinary care to avoid injuring another. The trier of fact can decide whether the Defendant could have avoided injuring another by using ordinary care. *And the trier of fact can decide if the Defendant failed to use the ordinary care to avoid injuring another when to a reasonable person it must have been apparent that the result was likely to be serious injury.*

(Italics added).

In *People v Datema*, 448 Mich 585; 533 NW2d 272 (1995), the Court observed as follows in explaining what is involved in the offense of involuntary manslaughter:

An unlawful act committed with the intent to injure or in a grossly negligent manner that proximately causes death is involuntary manslaughter. In the former instance the defendant has consciously intended to injure in wanton disregard of the safety of others: conduct which if it causes death is (at least) involuntary manslaughter. *In the latter instance, criminal liability is imposed because, although the defendant's acts are not inherently wrong, the defendant has acted or failed to act with awareness of the risk to safety and in wilful disregard of the safety of others.*

448 Mich at 606.

The prosecution's theory in this case is the latter instance above.

The Court in *Datema* then observed:

Where an actor knows of the danger to others that might follow from his act or failure to act, *and wilfully disregards the consequences by failing to use the care that a reasonable person would have used in the circumstances, his negligence is also advertent and wilful*, but the mens rea is objective. This standard is akin to the state of mind that will permit a finding of the malice required for murder from the wilful and wanton disregard of a likelihood of death or great bodily harm.

448 Mich at 607.

As it appears to the People, the above italicized language, "failing to use the care that a reasonable person would have used under the circumstances," is essentially the language of CJI2d 16:18(4). And if that is true, as the People believe it is, and if, as the Court in *Datema* said, failing to use the care that a reasonable person would have used under the circumstances is willful disregard, it follows that proofs that show that a reasonable trier of fact could find that CJI2d 16:18(4) was proven beyond a reasonable doubt, show *willful* disregard. At the sake of being overly redundant, the trial court found that the prosecution's proofs were sufficient for a trier of fact to find that CJI2d

16:18(4) had been proven beyond a reasonable doubt. So, it must follow that the trial court found sufficient evidence for a finding of willful disregard to go to the jury, contrary to what the actually court said.

Thus, the trial court made a legal error in granting Defendant's motion for directed verdict as to the involuntary manslaughter charge.

Relief

Wherefore, the People respectfully request that this Honorable Court either grant the People's Application for Leave to file an Emergency Interlocutory Appeal, or in lieu of granting leave to appeal, peremptorily reverse the Order granting Defendant's motion for directed verdict as to the involuntary manslaughter count.

Respectfully submitted,

Kym L. Worthy
Prosecuting Attorney
County of Wayne

Timothy A. Baughman
Chief of Research
Training and Appeals

Thomas M. Chambers

Thomas M. Chambers (P 32662)
Assistant Prosecuting Attorney
12th Floor, 1441 St. Antoine
Detroit, Michigan 48226
Phone: (313) 224-5749

Dated: October 3, 2014

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

vs

**Court of Appeals
No.**

JOSEPH JACOB WEEKLY,

Defendant-Appellee.

Lower Court No. 11-009841-01-FH

The People's Appendix A

**Kym L. Worthy
Prosecuting Attorney
County of Wayne**

**Timothy A. Baughman
Chief of Research
Training and Appeals**

**Thomas M. Chambers (P 32662)
Assistant Prosecuting Attorney
12th Floor, 1441 St. Antoine
Detroit, Michigan 48226
Phone: (313) 224-5749**

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

vs

**Court of Appeals
No.**

JOSEPH JACOB WEEKLY,

Defendant-Appellee.

Lower Court No. 11-009841-01-FH

The People's Appendix B

**Kym L. Worthy
Prosecuting Attorney
County of Wayne**

**Timothy A. Baughman
Chief of Research
Training and Appeals**

**Thomas M. Chambers (P 32662)
Assistant Prosecuting Attorney
12th Floor, 1441 St. Antoine
Detroit, Michigan 48226
Phone: (313) 224-5749**

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	ORDER DENYING/GRANTING MOTION	CASE NO. 11-009841-01-FH
ORI MI- 821095J Court Address	1441 St. Antoine, Detroit MI 48226	Courtroom 801 Court Telephone No. 313-224-2120

THE PEOPLE OF THE STATE OF MICHIGAN

vs.

Joseph Jacob Weekly
Defendant

At a Session of Said Court held in The Frank Murphy Hall of Justice
at Detroit in Wayne County on 10-3-14

PRESENT: Honorable Cynthia Gray Hathaway

2014 OCT -3 PM 4: 18
 COURT OF APPEALS
 DETROIT OFFICE

A Motion for: PROSECUTOR'S MOTION TO STAY PROCEEDINGS

_____ having been filed; and
the People having filed and answer in opposition; and the Court having reviewed the briefs and records in the
Cause and being fully advised in the premises;

IT IS ORDERED THAT the Motion for SAME *without objection*
_____ be and

is hereby denied granted.

Cynthia Gray Hathaway 140096
Honorable Cynthia Gray Hathaway

A TRUE COPY
CATHY M. GARRETT
WAYNE COUNTY CLERK
Tonio Almel
DEPUTY CLERK

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

vs

**Court of Appeals
No.**

JOSEPH JACOB WEEKLY,

Defendant-Appellee.

Lower Court No. 11-009841-01-FH

The People's Appendix C

**Kym L. Worthy
Prosecuting Attorney
County of Wayne**

**Timothy A. Baughman
Chief of Research
Training and Appeals**

**Thomas M. Chambers (P 32662)
Assistant Prosecuting Attorney
12th Floor, 1441 St. Antoine
Detroit, Michigan 48226
Phone: (313) 224-5749**

REGISTER OF ACTIONS
CASE NO. 11-009841-01-FH

State of Michigan v Joseph Jacob Weekly

§ 9003

Case Type: Noncapital Felonies
 Date Filed: 10/04/2011
 Location: Criminal Division
 Case Number History: 11721439-01
 Case Tracking Number: 11721439-01
 CRISNET/Incident No.: 29-3310-10

RELATED CASE INFORMATION

Related Cases
 11-009841-02-FH (Co Defendant)

PARTY INFORMATION

<p>Defendant Weekly, Joseph Jacob</p> <p>Plaintiff State of Michigan</p>	<p>Male Black DOB: 03/09/1976</p>	<p>Lead Attorneys Steven Fishman <i>Retained</i> (313) 962-4090(W)</p> <p>Robert A. Moran (313) 224-5777(W)</p>
--	--	---

CHARGE INFORMATION

Charges: Weekly, Joseph Jacob	Statute	Level	Date
1. Homicide - Manslaughter - Involuntary	750321-C	.	05/16/2010
2. Weapons - Firearms - Careless Discharge causing Injury or Death	752861	.	05/16/2010

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

10/04/2011 Recommendation for Warrant

10/04/2011 Arraignment On Information (9:00 AM) (Judicial Officer Braxton, Margie R.)
Parties Present
 Result: Held

10/04/2011 Investigative Subpoena

10/04/2011 Disposition Conference (9:00 AM) (Judicial Officer Braxton, Margie R.)
Parties Present
 Result: Held

10/04/2011 Interim Condition for Weekly, Joseph Jacob
 - Personal Bond (Own Recognizance)
 \$100,000.00

10/04/2011 AOI Plea (Judicial Officer: Braxton, Margie R.)
Defendant Stand Mute: Plea of Not Guilty Entered by Court

10/04/2011 Bond Continued (Judicial Officer: Braxton, Margie R.)

10/04/2011 Motion (Judicial Officer: Braxton, Margie R.)
To Reduce Bond - Heard/Granted

10/04/2011 Appearance By A Retained Attorney Filed (Judicial Officer: Braxton, Margie R.)

10/04/2011 Bound Over

10/28/2011 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 10/07/2011 Reset by Court to 11/11/2011
 11/11/2011 Reset by Court to 10/28/2011
 Result: Held

02/10/2012 Order (Judicial Officer: Hathaway, Cynthia Gray)
Stipulation & Order that the Motion cut-off date shall be extended from 2-10-2012 to 3-23-2012 and Final Conference and argument on the Motions be extended to April 20, 2012. Granted. Order signed & filed.

03/02/2012 CANCELED Final Conference (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Adjourned at the Request of the Defense
Adjourned at the Request of the Defense

03/23/2012 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

03/23/2012 Order (Judicial Officer: Hathaway, Cynthia Gray)
Stipulated Order For Separate Jury Trials. S/F

04/20/2012 CANCELED Final Conference (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Adjourned at the Request of the Defense
Adjourned at the Request of the Defense

04/30/2012 CANCELED Jury Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Adjourned at the Request of the Defense
Adjourned at the Request of the Defense

06/15/2012 Motion Hearing (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

2014 OCT -3 PM 4:18
 COURT OF APPEALS
 DETROIT OFFICE

06/15/2012 Motion (Judicial Officer: Hathaway, Cynthia Gray)
Defense Motion for Bill of Particulars-Granted

07/27/2012 CANCELED Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Adjourned:At The Request Of The Court
Adjourned:At The Request Of The Court

09/26/2012 Motion
Motion to Dismiss Indictment

09/28/2012 Motion Hearing (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

10/22/2012 CANCELED Jury Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Adjourned:At The Request Of The Prosecution
Adjourned:At The Request Of The Prosecution

10/29/2012 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

11/30/2012 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: In Progress

11/30/2012 Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

03/08/2013 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

03/08/2013 Motion to Dismiss (Judicial Officer: Hathaway, Cynthia Gray)
Indictment based on insufficient evidence

03/08/2013 Heard And Denied - Order Signed and Filed (Judicial Officer: Hathaway, Cynthia Gray)

03/08/2013 Motion (Judicial Officer: Hathaway, Cynthia Gray)
to allow jury to view diversionary device

03/08/2013 Heard And Granted - Order Signed and Filed (Judicial Officer: Hathaway, Cynthia Gray)

05/29/2013 Jury Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

05/30/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/03/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: In Progress

06/04/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/05/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/06/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/10/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/11/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
 Result: In Progress

06/12/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/12/2013 Denied By The Court Of Appeals
the complaint for superintending control

06/12/2013 Granted In Part
motion for immediate consideration

06/13/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/14/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/17/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/18/2013 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
 Result: Held

06/18/2013 Hung Jury (Judicial Officer: Hathaway, Cynthia Gray)

06/27/2013 Order For Production Of Trial Transcript
Marilyn Dillard; June 5, June 6, June 12, 2013; Non-appeal, court ordered

06/27/2013 Order For Production Of Transcript
Melissa Harding; May 29, May 30, 2013, June 3, June 4, June 10, June 11, June 13, June 14, June 18 2013; Non-appeal, court ordered

07/25/2013 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

08/21/2013 Result: In Progress
Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

10/22/2013 Result: Held
Review Date (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
TO ADDRESS PAYMENT OF FINE FROM FOX 2
Result: Held

10/22/2013 Order (Judicial Officer: Hathaway, Cynthia Gray)
TO VACATE ORDER PROHIBITING FOX 2 CAMERAS FROM FILMING IN COURTROOM 801 (ORDER DATED 06/03/2013) FOX 2 HAS
COMPLIED IN EVERY MANNER INCLUDING PAYING THE SANCTION ORDER OF \$10,000 FOR THE ORIGINAL VIOLATION OF FILMING
THE FACE(S) OF JURORS.

12/04/2013 CANCELED Jury Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Scheduling Error
Scheduling Error

03/21/2014 Pre-Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present
02/07/2014 Reset by Court to 02/21/2014
02/21/2014 Reset by Court to 03/14/2014
03/14/2014 Reset by Court to 03/21/2014

09/05/2014 Result: Held
Motion Hearing (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Defense Motion to Adjourn Trial Date
Parties Present

09/05/2014 Result: Held
Motion (Judicial Officer: Hathaway, Cynthia Gray)
TO ADJOURN TRIAL

09/05/2014 Heard And Denied - Order Signed and Filed (Judicial Officer: Hathaway, Cynthia Gray)

09/15/2014 Jury Trial (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/15/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/16/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/16/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/17/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/17/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/18/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/18/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/22/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/22/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/23/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/23/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/24/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/24/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/29/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/29/2014 Result: Held
Motion For A Mistrial (Judicial Officer: Hathaway, Cynthia Gray)

09/29/2014 Heard And Denied - Order Signed and Filed (Judicial Officer: Hathaway, Cynthia Gray)

09/29/2014 Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

09/30/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

09/30/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

10/01/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

10/01/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

10/02/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

10/02/2014 Result: Held
Bond Continued (Judicial Officer: Hathaway, Cynthia Gray)

10/03/2014 Jury Trial In Progress (9:00 AM) (Judicial Officer Hathaway, Cynthia Gray)
Parties Present

10/03/2014 Result: Held
Motion For A Directed Verdict Of Not Guilty (Judicial Officer: Hathaway, Cynthia Gray)
ON CT 1 - HOMICIDE INVOLUNTARY MANSLAUGHTER

10/03/2014 | **Heard And Granted - Order Signed and Filed** (Judicial Officer: Hathaway, Cynthia Gray)
10/03/2014 | **Stay of Appeal - Interlocutory Appeal Granted** (Judicial Officer: Hathaway, Cynthia Gray)
10/03/2014 | **Bond Continued** (Judicial Officer: Hathaway, Cynthia Gray)
10/06/2014 | **Jury Trial In Progress (9:00 AM)** (Judicial Officer Hathaway, Cynthia Gray)

STATE OF MICHIGAN
IN THE COURT OF APPEALS

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

vs

Court of Appeals
No.

JOSEPH JACOB WEEKLY,

Defendant-Appellee.

Lower Court No. 11-009841-01-FH

Proof of Service

State of Michigan)
County of Wayne) ^{ss}

The undersigned deponent, being duly sworn, deposes and says that he served true copies of **The People's Application for Leave to File Emergency Interlocutory Appeal with Appendices A through C** upon: Mr. Steven Fishman, the attorney for Defendant, by **email service** at the following email and copies of these pleadings upon the Honorable Cynthia Gray Hathaway, Judge of the Wayne County Circuit Court, Criminal Division, on October 3, 2014:*

Mr. Steven Fishman
Attorney at Law
sfish6666@gmail.com

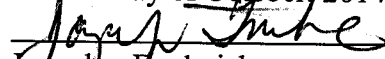
Honorable Cynthia Gray Hathaway
Judge of the Wayne County Circuit Court
Room 801, Frank Murphy Hall of Justice
1441 St. Antoine, Detroit MI 48226


Thomas M. Chambers

said pleading was filed in the Court of Appeals, by Personal Service at the following address:

Michigan Court of Appeals
Cadillac Place
3020 West Grand Boulevard, Suite 14-300.
Detroit, Michigan 48202

Subscribed and sworn to before me
this 3rd day of October, 2014


Joycelyn Frederick
Notary Public, Wayne County, Michigan
My commission expires: 03/08/15

* The parties agreed that service could be made by email service.

RECEIVED
2011 OCT -3 PM 4:17
COURT OF APPEALS
DETROIT OFFICE