

MICHIGAN SUPREME COURT

People of Michigan v. Cleophas Andrew Brown

No. SC: 160661, Michigan Supreme Court (May 1, 2020)

SUMMARY

Michigan Supreme Court order granting oral argument on whether a concealed weapon conviction under MCL 750.227(2) requires proof that the defendant had notice under MCL 28.428 that his concealed pistol license had been suspended or revoked. The court also directed briefing on whether the Court of Appeals erred in finding adequate notice was provided. No final holding; the court invited amicus briefs from prosecution and defense associations.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Bridget M. McCormack; David F. Viviano; Stephen J. Markman; Brian K. Zahra; Richard H. Bernstein; Elizabeth T. Clement; Megan K. Cavanagh
JURISDICTION	Michigan
DECIDED	May 1, 2020
DOCKET	SC: 160661
DISPOSITION	other
PROCEDURAL POSTURE	Order on application for leave to appeal; court directs oral argument and supplemental briefing
PRECEDENTIAL VALUE	published
PARTIES	Cleophas Andrew Brown v. People of the State of Michigan

TOPICS

- criminal procedure
- statutory interpretation

PRACTICE AREAS

- Criminal Law

QUESTIONS PRESENTED

1. Whether, in a prosecution for carrying a concealed weapon under MCL 750.227(2), the prosecutor must establish that the defendant had notice under MCL 28.428 that his concealed pistol license had been suspended or revoked.
2. Whether the Court of Appeals erred in determining that, if notice is required, the evidence demonstrated that the defendant was served with adequate notice that he could not legally possess a concealed pistol.

KEY QUOTATIONS

“whether: (1) in a prosecution for carrying a concealed weapon under MCL 750.227(2), the prosecutor must establish that the defendant had notice under MCL 28.428 that his concealed pistol license had been suspended or revoked; and (2) the Court of Appeals erred in determining that if notice is required, the evidence demonstrated that the defendant was served with adequate notice that he could not legally possess a concealed pistol.”

FACTUAL BACKGROUND

The defendant was charged with carrying a concealed weapon in violation of MCL 750.227(2). The lower court proceedings are not described in this order, but the appeal concerns whether the prosecutor must prove notice of suspension or revocation of the defendant's concealed pistol license under MCL 28.428.

PROCEDURAL HISTORY

The Court of Appeals entered judgment on October 15, 2019. Defendant-appellant filed an application for leave to appeal to the Michigan Supreme Court. The Supreme Court now orders oral argument on the application.

DISPOSITION

other

OPINION

PER CURIAM.

Order Michigan Supreme Court Lansing, Michigan May 1, 2020 Bridget M. McCormack, Chief Justice 160661 David F. Viviano, Chief Justice Pro Tem Stephen J. Markman PEOPLE OF THE STATE OF MICHIGAN, Brian K. Zahra Plaintiff-Appellee, Richard H. Bernstein Elizabeth T. Clement v SC: 160661 Megan K. Cavanagh, Justices COA: 348079 Oakland CC: 2018-266476-FH CLEOPHAS ANDREW BROWN, Defendant-Appellant.
_____/ On order of the Court, the application for leave to appeal the October 15, 2019 judgment of the Court of Appeals is considered.

We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). The appellant shall file a supplemental brief within 42 days of the date of this order addressing whether: (1) in a prosecution for carrying a concealed weapon under MCL 750.227(2), the prosecutor must

establish that the defendant had notice under MCL 28.428 that his concealed pistol license had been suspended or revoked; and (2) the Court of Appeals erred in determining that if notice is required, the evidence demonstrated that the defendant was served with adequate notice that he could not legally possess a concealed pistol.

In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1).

The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief.

The parties should not submit mere restatements of their application papers. The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court. May 1, 2020 p0428 Clerk