



ALLEGAN COUNTY PROSECUTING ATTORNEY
MYRENE KAY KOCH

JUDITH C. KASSON
Chief Assistant Prosecuting Attorney

EMELDA CALANCHI-POPE
Victim/Witness Coordinator

Rec'd 6/24/22

June 9, 2022

Ms. Katherine L. Henry
7194 Michael Drive
Hudsonville, Michigan 49426

RE: THE PEOPLE vs KATHERINE LINDSEY HENRY
CASE NO: 22-65775-AR

Dear Ms. Henry:

Enclosed please find the Plaintiff-Appellee's Motion to Dismiss Application for Leave to Appeal and Plaintiff-Appellee's Motion for Immediate Consideration along with a proof of service regarding the above mentioned case.

Sincerely,

MOLLY S. SCHIKORA
Assistant Prosecuting Attorney
BY: Paige L. Christman
Legal Administrative Specialist II

/plc

Enclosure

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ALLEGAN

THE PEOPLE OF THE
STATE OF MICHIGAN,

CIRCUIT COURT NO: 22-65775-AR

Plaintiff-Appellee,

LOWER COURT NO: 203569SM

vs

KATHERINE LINDSEY HENRY,

Defendant-Appellant,

MOLLY S. SCHIKORA (P46997)
Assistant Prosecuting Attorney
113 Chestnut Street
Allegan, Michigan 49010
(269) 673-0280

KATHERINE L. HENRY
Defendant in Pro Per
7194 Michael Drive
Hudsonville, Michigan 49426
[REDACTED]

PLAINTIFF-APPELLEE'S
MOTION TO DISMISS APPLICATION FOR LEAVE TO APPEAL

The People of the State of Michigan, by Molly Schikora, Assistant Prosecutor, move to dismiss Defendant's application for leave to appeal pursuant to MCR 7.110 and 7.211(C) based on the following considerations:

1. Defendant is awaiting trial in the 57th District Court.
2. On June 1, 2022, in response to several motions filed by Defendant, Judge Baillargeon entered an order adjourning her June jury trial to allow adequate consideration of and response to her pleadings. At this juncture, her motions are scheduled to be heard on July 7, 2022.
3. In relevant portion, Michigan Court Rule 7.103 provides that the Circuit Court may grant leave to appeal from "a judgment or order of a trial court..." Her present application for leave to appeal lists numerous grounds for relief regarding which the district court has not issued judgments or orders. She notes the district court's "refusal to dismiss this case based on lack of

subject matter jurisdiction, as raised by Henry in the May 26, 2022 pleadings,” but fails to mention that this is among the issues scheduled for consideration by the court on July 7. (Application of Defendant-Appellant at 1-2).

4. Defendant previously pursued these issues of “substantive” and “procedural” due process in the trial court, and on application for leave to appeal in this Court and in the Michigan Court of Appeals. The Court of Appeals denied her applications based on her “failure to persuade the Court of the need for immediate appellate review.” (Appendix).

5. Even if the present issues were not purely duplicative, the fact that Defendant seeks to skip over the District Court’s pending consideration of her outstanding motions divests this Court of jurisdiction.

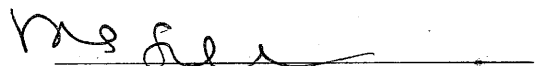
6. As a basis for jurisdiction in this Court, Defendant misleadingly cites a hybrid of case law, statutes and court rules. For example, *US v Cotton*, 535 US 625, 630 (2002), where she cites it, stands for the proposition only that subject matter jurisdiction is not waived or forfeited as basis for appeal where unpreserved in the lower court, not that an appellant may leapfrog the relevant tribunal.

7. Regardless of the absolute grounds for dismissal, as a practical consideration, the District Court may grant the relief requested by Defendant, obviating the need for this Court’s inquiry.

WHEREFORE, the People respectfully request that this Honorable Court dismiss Defendant-Appellant’s application for leave to appeal.

Dated: June 8, 2022

Respectfully submitted,


Molly S. Schikora (P46997)
Assistant Prosecuting Attorney

MSS/plc

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PLAINTIFF-APPELLEE'S
MOTION TO DISMISS APPLICATION FOR LEAVE TO APPEAL

APPENDIX

Michigan Court of Appeals Order dated May, 3, 2021
Michigan Court of Appeals order dated June 9, 2021

Court of Appeals, State of Michigan

ORDER

People of MI v Katherine Lindsey Henry

Docket No. 356828

LC No. 21-064004-AR

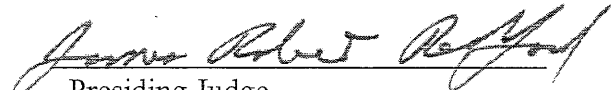
James Robert Redford
Presiding Judge

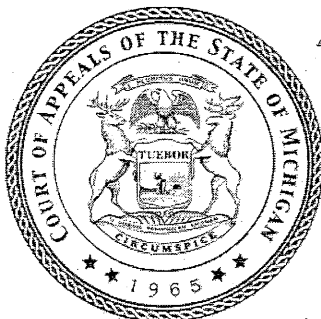
David H. Sawyer

Douglas B. Shapiro
Judges

The motion for immediate consideration is GRANTED.

The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.


Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

May 3, 2021

Date


Chief Clerk

Court of Appeals, State of Michigan

ORDER

People of MI v Katherine Lindsey Henry

Docket No. 357134

LC No. 21-064029-AR

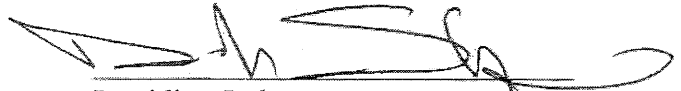
Douglas B. Shapiro
Presiding Judge

David H. Sawyer

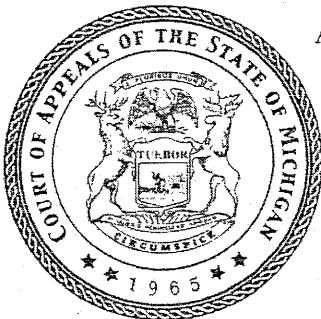
Mark T. Boonstra
Judges

The motion for immediate consideration is GRANTED.

The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.



Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 9, 2021

Date



Chief Clerk

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**PLAINTIFF-APPELLEE'S MOTION FOR
IMMEDIATE CONSIDERATION**


Plaintiff-Appellee, the People of the State of Michigan, by Molly Schikora, Assistant Prosecutor, moves this Court pursuant to MCR 7.110 for immediate consideration of its motion to dismiss based on the following:

1. Defendant-Appellant is charged with one count of trespass, contrary to MCL 750.552.
2. Dispositive motions, substantively coextensive to the application for leave to appeal filed here, are currently pending in the District Court. Hearing is scheduled for July 7, 2022.
3. Defendant's pursuing the same issues at the same time in District and Circuit Court is illegal and creates unreasonable confusion and wasted resources.

WHEREFORE, Plaintiff-Appellee respectfully requests that this Honorable Court grant Plaintiff-Appellee's motion for immediate consideration of its Motion to Dismiss.

Dated: June 8, 2022

Respectfully submitted,


Molly S. Schikora (P46997)
Assistant Prosecuting Attorney

MSS/plc