

STATE OF MICHIGAN
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff/Appellee,

-v-

KEITH ERIC WOOD,

Defendant/Appellant.

COURT OF APPEALS
NO. 342424
CIRCUIT COURT
NO. 17-24073-AR
DISTRICT COURT
NO. 15-45978-FY

Brian E. Thiede P32796
Mecosta County Prosecuting Attorney
Attorney for Plaintiff/Appellee
400 Elm Street
Big Rapids, MI 49307
231-592-0141

David A. Kallman P34200
Stephen P. Kallman P75622
Attorneys for Defendant/Appellant
5600 West Mount Hope Hwy.
Lansing, MI 48917
517-322-3207

ANSWER TO MOTION FOR BOND PENDING APPEAL AND FOR STAY

NOW COMES Plaintiff/Appellee and in Answer to Defendant/Appellant's Motion states
unto this Honorable Court as follows:

1. Answering allegation 1, Plaintiff/Appellee admits the same.
2. Answering allegation 2, Plaintiff/Appellee admits the same.
3. Answering allegation 3, Plaintiff/Appellee admits the same.
4. Answering allegation 4, Plaintiff/Appellee admits the same.
5. Answering allegation 5, Plaintiff/Appellee admits the same.
6. Answering allegation 6, Plaintiff/Appellee admits the same.
7. Answering allegation 7, Plaintiff/Appellee admits the same.
8. Answering allegation 8, Plaintiff/Appellee admits the same.

9. Answering allegation 9, Plaintiff/Appellee admits the same. Further answering, Defendant/Appellant did not seek bond through proper notice and hearing either in the trial court nor in the first level appellate court after having his conviction affirmed on his appeal of right.

10. Answering allegation 10, Plaintiff/Appellee admits the same.

11. Answering allegation 11, the allegation combines multiple claims of fact.

Plaintiff/Appellant is informed and believes that Appellant is only recently a resident of Michigan having come from Colorado. Appellant testified his employment takes him all over the State of Michigan. Appellant moved from the Mecosta County community during the pendency of this case. Appellant remains in denial in this case as he fails to state he was convicted by a jury in this case as well as having the prior drinking driving conviction.

12. Answering allegation 12, Appellee leaves Appellant on his proofs. The consequences of Appellant's actions are among those which the criminal justice system uses to deter the commission of criminal offenses. Not having impacted Appellant, it is hopeful the plight of his family will deter others from committing crimes.

13. Answering allegation 13, Appellee states that Appellant has had no known violations of his bond. Appellee has no comment as to Appellant's future promises.

14. Answering allegation 14, Plaintiff/Appellee admits the same.

15. Answering allegation 15, Plaintiff/Appellee has no reason to rely on Appellant's assertion as, according to record information, Appellant has moved once already during the pendency of this case.

16. Answering allegation 16, Plaintiff/Appellee admits that an Application for Leave to Appeal has been filed but cannot comment as to Appellant's future promises.

17. Answering allegation 17, Plaintiff/Appellee notes that the most salient fact has been ignored by Appellant, and that is, that his conviction has already been affirmed on appeal.

18. Answering allegation 18, Plaintiff/Appellee denies the same as it is untrue. Appellant is most certainly guilty. That is what the jury determined. That determination has been affirmed on appeal.

19. Answering allegation 19, Plaintiff/Appellee agrees that the *Giacalone, infra*, four-part test is appropriate for appeal purposes. See also MCL 770.9.

20. Answering allegation 20, Plaintiff/Appellee denies the same as it is untrue. Unlike in *People v Giacalone*, 16 Mich App 352 (1969), this is not an appeal of right. Appellant has already had an appellate court determine that there is no “substantiality” to the issues Appellant seeks to raise. Moreover, Appellant’s continuing efforts to evade the imposition of his just sentence do impede the administration of justice. Appellant has enjoyed the benefits of abundant retained legal resources both at trial and on appeal. The first stay in this case raised questions of fairness as compared to the usual case and indigent defendants. A further stay is unwarranted.

Most prior cases dealing with requests for bond where an application for leave to appeal has been filed are resolved by order and are therefore with out precedential value. On the other hand, a review of those cases is instructive and reveals that the grant of bond and stay while an application for leave to appeal is pending is not granted even where an application is held in abeyance while appeals in other cases with similar issues are resolved. See eg. *People v Manzo*, ____ Mich ____; 889 NW2d 271 (2017).

21. Answering allegation 21, Plaintiff/Appellee states the allegation is repetitive and untrue.

22. Answering allegation 22, Plaintiff/Appellee denies the same as it is untrue. Plaintiff/Appellee is informed and believes that Appellant moved from the community. Appellant claims he is not trying to delay matters by his appeal, yet first on his list with each appeal is an effort to delay the timely imposition of his sentence.

23. Answering allegation 23, Plaintiff/Appellee states that Appellant's conviction has already been affirmed in the appeal of right, he will suffer no harm. Justice delayed for the community is also justice denied.

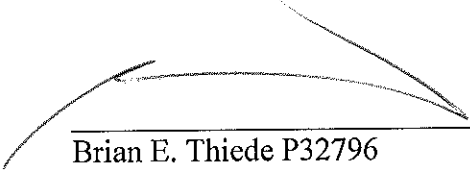
24. Answering allegation 24, Plaintiff/Appellee denies the same as it is untrue.

25. Answering allegation 24, Plaintiff/Appellee denies the same as it is untrue.

WHEREFORE, for the reasons stated above, Plaintiff/Appellee respectfully requests that this Honorable Court deny Appellant's motion.

Respectfully submitted,

February 16, 2018



Brian E. Thiede P32796
Mecosta County Prosecuting Attorney
Attorney for Plaintiff/Appellee

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CERTIFICATE OF MAILING

KEITH ERIC WOOD
Defendant/Appellant.

_____/_____
Mecosta County Prosecutor's Office
Brian Thiede (P32796)
400 Elm Street
Big Rapids MI 49307

David A. Kallman (P34200)
Stephen P. Kallman (P75622)
Attorneys for Defendant
5600 W. Mount Hope Hwy.
Lansing, MI 48917

CERTIFICATE OF MAILING

I, Nicole Marshall, served a copy of the PEOPLE'S ANSWER FOR BOND PENDING APPEAL AND FOR STAY, an APPEARANCE and this CERTIFICATE OF MAILING, on February 16, 2018 on the following:

David A. Kallman (P34200)
Stephen P. Kallman (P75622)
5600 W. Mount Hope Hwy.
Lansing, MI 48917

By first class mail, postage prepaid, and deposited the envelope in an U.S. Mail receptacle, said envelope bearing the following return address:

Brian E. Thiede
Mecosta County Prosecuting Attorney
400 Elm Street
Big Rapids, Michigan 49307

2/16/18
Date

Nicole Marshall
Nicole Marshall

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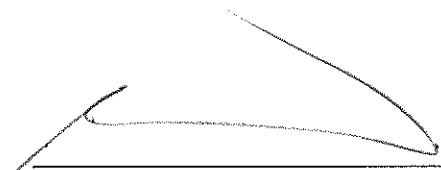
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400 Elm Street
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APPEARANCE

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Stephen P. Kallman (P75622)
Attorneys for Defendant
5600 W. Mount Hope Hwy.
Lansing, MI 48917

PLEASE ENTER the Appearance of Brian Thiede, as attorney for the People of the State of Michigan in the above-captioned matter.

Dated: February 16, 2018



Brian Thiede (P32796)
Chief Prosecuting Attorney