

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

Case No. 2021-278176-FH  
Hon. Michael Warren

ANTHONY DEGIULIO,

Defendant.

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OPINION AND ORDER GRANTING PEOPLE'S MOTION IN LIMINE  
TO PERMIT ALTERNATE THEORIES

At a session of said Court, held in the  
County of Oakland, State of Michigan  
December 15, 2021

PRESENT: HON. MICHAEL WARREN

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OPINION

In the instant Motion, the People have moved this Court to permit the People to pursue alternate theories alleging that Defendant Anthony Degiulio violated MLC 750.411a(1)(b) by (1) directly making or (2) causing to make, the filing of a false report of felony. The Court having reviewed the Motion and Response, and otherwise being fully informed in the premises, hereby dispenses

with oral argument as it would not assist the Court in rendering a decision. MCR 2.119(E)(3).

## **I Rules of Statutory Construction**

MCL 8.3a provides that “All words and phrases [in statutory provisions] shall be construed and understood according to the common and approved usage of the language; but technical words and phrases, and such as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.”

The Supreme Court has explained the rules of statutory construction as follows:

The role of this Court in interpreting statutory language is to “ascertain the legislative intent that may reasonably be inferred from the words in a statute.” In doing so, “[c]ourts must give effect to every word, phrase, and clause in a statute and avoid an interpretation that renders nugatory or surplusage any part of a statute.” This Court has explained:

When construing a statute, we consider the statute’s plain language, and we enforce clear and unambiguous language as written. While terms must be construed according to their plain and ordinary meaning, words and phrases as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

“[W]ords and phrases used in an act should be read in context with the entire act and assigned such meanings as to harmonize with the act as a whole,” and “a word or phrase should be given meaning by its context or setting. [*Hannay v MDOT*, 497 Mich 45, 57 (2014) (footnotes omitted)].

In addition, “If the meaning of a statute is clear and unambiguous, then judicial construction to vary the statute’s plain meaning is not permitted.” *Houdek v Centerville Twp*, 276 Mich App 568, 581 (2007). “The Legislature is presumed to have intended the meaning it plainly expressed.” *Watson v Mich Bureau of State Lottery*, 224 Mich App 639, 645 (1997). Moreover, “unless explicitly defined in a statute, ‘every word or phrase of a statute should be accorded its plain and ordinary meaning, taking into account the context in which the words are used.’” *Yudashkin v Holden*, 247 Mich App 642, 650 (2001), quoting *Michigan State Bldg & Constr Trades Counsel, AFL-CIO v Director, Dep’t of Labor*, 241 Mich App 406, 411 (2000). Because undefined terms must be given their plain and ordinary meanings, consulting a dictionary to define terms is appropriate. *Allison v AEW Capital Mgmt, LLP*, 481 Mich 419, 427 (2008).

## II

### **The plain language of the statute supports the People’s alternative theories**

For the reasons articulated in the Motion regarding the plain and unambiguous interpretation of the statutory text, the plain language of the statute supports the People’s alternative theories. Without limiting the foregoing, the

issue here is whether the Defendant's alleged behavior of coercing his daughter to report criminal sexual conduct at a Care House interview is sufficient to violate MCL 750.411(a)(1)(b). The statute at issue makes a criminal behavior when "a person . . . intentionally causes a false report of the commission of a crime to be made . . . ." MCL 450.411a(1). The Defendant argues the allegation that he coerced his daughter into making a false report of a felony at the Care House interview is insufficient to violate the law. However, "cause" means (1) "Something that produces an effect, result, or consequence," (2) "The person, event, or state responsible for a an action or result," (3) A basis for an action or decision: REASON," and similar formulations.<sup>1</sup> Viewing the evidence in the light most favorable to the People, the Defendant was the person that produced and was responsible for producing the basis for the false report, which in turn resulted in the police report. Whether the Defendant "intentionally" acted to have that result is another fact issue properly reserved to a jury. If the People prove beyond a reasonable doubt that the Defendant intended that the false report at Care House would result in a police report, the People will have met their burden of proof.

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<sup>1</sup> Webster's II, New Riverside University Dictionary, The Riverside Publishing Company, 1988, Boston, Massachusetts, p. 239 definitions 1a, 1b, and 2.

### III

#### **The People's reliance on Legislative History is unnecessary and improper**

The People's reliance on legislative history is unnecessary, unpersuasive, and destructive to America's First Principles.

The words of the statutory provision at issue are unambiguous. Not only is there no need for judicial construction, it is not permitted. *Hannay v MDOT*, 497 Mich at 57.

Moreover, the use of legislative history is of dubious value and rewards improper gamesmanship in the judiciary and legislature. United States Supreme Court Justice Scalia pointed this out decades ago:

Legislative history provides, moreover, a uniquely broad playing field. In any major piece of legislation, the legislative history is extensive, and there is something for everybody. As Judge Harold Leventhal used to say, "the trick is to look over the heads of the crowd and pick out your friends. The variety of specificity of result that legislate history can achieve is unparalleled."<sup>2</sup>

Worse, reliance on legislative history undermines the rule of law (by reading into or out of texts the actual words of the legislation), severs the Social Compact (by cutting the linkage between the actual law passed and the outcome

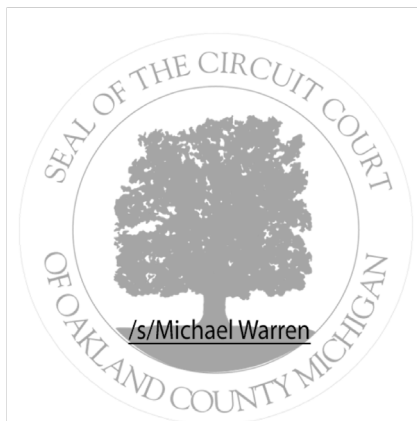
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<sup>2</sup> Antonin Scalia, "Common-Law Courts in a Civil-Law System: The Role of United States Federal Courts in Interpreting the Constitution and Laws," The Tanner Lectures on Human Values, Delivered at Princeton University, March 8 and 9, 1995, p. 36.

of the case, thereby eliminating accountability of the legislature to the people), and subverts the separation of powers by elevating judicial decision-making over the words enacted by the legislature - the proper lawmaker. In sum, it is a “failed experiment” both in “principle” and in “practice.”<sup>3</sup>

### ORDER

In light of the foregoing Opinion, the People’s Motion in Limine to Permit Alternate Theories is hereby GRANTED.



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<sup>3</sup> *Id.*