

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

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PEOPLE OF THE STATE  
OF MICHIGAN

Court of Appeals No. 307758

Plaintiffs-Appellee,

St. Clair Circuit Court No. 06-  
001700-FC

v

RAYMOND CARP,

Defendants-Appellant.

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**MOTION OF ATTORNEY GENERAL TO INTERVENE  
AND FOR IMMEDIATE CONSIDERATION OF THIS MOTION**

Attorney General Bill Schuette, by and through his attorneys, Solicitor General John J. Bursch and Deputy Solicitor General B. Eric Restuccia, moves this Court under MCR 7.211 to allow him to intervene in this matter, and asks that the Court consider this motion immediately under MCR 7.211(C)(6).

1. The Attorney General supports the St. Clair County Prosecutor's Office in its efforts to secure the sentence of Raymond Carp to life imprisonment without the opportunity for parole for his conviction for first-degree murder. The Attorney General contends that the decision in *Miller v Alabama*, 132 S Ct 2455 (2012), is a new procedural rule that does not apply retroactively. This case involves more than just the rights of defendant Raymond Carp, but implicates all but a few of the 368 offenders in the Michigan Department of Corrections who were convicted of first-degree murder and sentenced to life imprisonment for offenses committed while

under the age of 18. (See Attachment A, List of 368 Juvenile Offenders Serving Life for First-Degree Murder.) This case raises the single most important criminal issue that this Court is likely to address this year.

2. The Attorney General has a right to intervene in this matter, pursuant to MCL 14.28, which provides in pertinent part:

The attorney general shall prosecute and defend all actions in the supreme court, in which the state shall be interested, or a party; . . . and the attorney general . . . may, when in his own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested. [MCL 14.28. See also MCL 14.101 and MCR 2.209(A)(1).]

See also *People v Monaco*, 475 Mich 1222; 716 NW2d 587 (2006).

3. The Attorney General is the chief law enforcement officer of the State of Michigan, see *Fieger v Cox*, 274 Mich App 449, 451; 734 NW2d 602 (2007), and supervises and advises all the prosecutors in the State of Michigan under MCL 14.30. See *People v Foster*, 377 Mich 233, 234-235; 140 NW2d 513 (1966).

4. The Attorney General asks to intervene because of his role as chief law enforcement officer, and also because he is currently defending a challenge to the constitutionality of Michigan law in *Hill v Snyder*, (No. 10-cv-14568), pending in federal district court before the Hon. Corbett O'Meara, in which the same issue of retroactivity is being litigated.

5. The Department of Attorney General has spoken with the St. Clair County Prosecutor's Office and it has no objection to the intervention of the Attorney General.

6. Moreover, immediate consideration is appropriate.

7. Concurrent with this motion, the Attorney General is filing his brief in support of the legal position that *Miller* is not retroactive, and in responding to the other questions presented by this Court in its August 9, 2012 order.

8. Because this matter has been set for oral argument for October 16, 2012, and the Attorney General would like to participate in that argument, the Attorney General respectfully asks that this Court grant immediate consideration of his motion under MCR 7.211(C)(6).

### **CONCLUSION AND RELIEF REQUESTED**

WHEREFORE, the Attorney General requests that this Honorable Court grant this motion, allowing the Attorney General to intervene.

Respectfully submitted,

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Attorney General

John J. Bursch (P57679)  
Solicitor General  
Counsel of Record

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/s/B. Eric Restuccia

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