

STATE OF MICHIGAN  
IN THE SUPREME COURT

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

No. 163942

KELWIN DWAYNE EDWARDS,  
Defendant-Appellant.

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COA No. 354647  
Wayne Circuit No. 13-000329-01-FC  
Hon. Cynthia Gray Hathaway  
Hon. Michael M. Hathaway–resentencing

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**PLAINTIFF-APPELLEE’S SUPPLEMENTAL ANSWER**

**\*ORAL ARGUMENT WAIVED\***

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**PLAINTIFF-APPELLEE’S SUPPLEMENTAL ANSWER**

This Court posed three questions to the parties in its order of July 22, 2022 granting defendant’s application for leave to appeal.<sup>1</sup> The order also directed the Clerk to schedule oral argument in this case for the same session of the Court when it will hear oral argument in *People v Johnson* (Docket No. 163073). In the *Johnson* order of July 22, 2022 granting defendant’s application for leave to appeal, this Court posed the same three questions verbatim as it did in this case.<sup>2</sup>

Therefore, in response to the questions this Court posed to the parties, the People of the State of Michigan, through Kym L. Worthy, Prosecuting Attorney, Wayne County, adopt the brief (excluding the counter-statement of facts and proceedings) filed on behalf of the People of the State of Michigan on December 16, 2022 by the Michigan

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<sup>1</sup>*People v Edwards*, \_\_ Mich \_\_ ; 976 NW2d 864 (2022) (Docket No. 163942).

<sup>2</sup>*People v Johnson*, \_\_ Mich \_\_ ; 976 NW2d 862 (2022) (Docket No. 163073).

Attorney General in *Johnson* (attached in the *Edwards* appendix).<sup>3</sup> The arguments supporting the People's position in that case equally apply here, including the discussion of the fatal flaws and omissions in defendant's argument.<sup>4</sup> Accordingly, the People adopt the Attorney General's brief in *Johnson* and waive oral argument.

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<sup>3</sup>The Attorney General's office has no objection to its brief being adopted here.

<sup>4</sup>For example, as in *Johnson*, defendant here does not cite *Dugan v Ohio*, 277 US 61 (1928). Attorney General's brief, pp 11-13 (*Edwards* Appendix, pp 18b-20b). Further, as in *Johnson*, defendant here has waived any Due Process claim by seeking only to vacate his court costs, not his convictions. Defendant "has not attempted any argument that would reconcile his broad constitutional claim with his narrow request for relief." Attorney General's brief, p 20 (*Edwards* appendix, p 27b).

**RELIEF**

For the reasons set forth in the People's brief filed by the Attorney General on December 16, 2022 in *People v Johnson* (Docket No. 163073), adopted here, the People ask this Court to hold, consistent with binding US Supreme Court precedent, that MCL 769.1k(1)(b)(iii) does not violate due process, and affirm the Court of Appeals decision of November 18, 2021 in the present case, and *People v Johnson*, 336 Mich App 688 (2021). This Court should decline to address the separation-of-powers argument, but, if it does address the argument, it should hold that MCL 769.1k(1)(b)(iii) is a permissible delegation of sentencing and taxing power from the legislature to the courts.

Respectfully submitted,

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County of Wayne

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*/s/ Margaret Gillis Ayalp*  
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