

STATE OF MICHIGAN  
IN THE 17TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF KENT

REC'D & FILED

OCT 31 1994

Kent County Clerk

THE PEOPLE OF THE  
STATE OF MICHIGAN,

vs.

File No.: 93-63014-FCB

STEPHEN DENNIS TURNER,

Defendant.

MOTION PROCEEDINGS

BEFORE THE HONORABLE DENNIS C. KOLENDA, CIRCUIT JUDGE

Grand Rapids, Michigan - Friday, November 19, 1993

APPEARANCES:

FOR THE PEOPLE:

KAREN ANSPAUGH  
Assistant Prosecuting Attorney  
416 Hall of Justice  
Grand Rapids, MI 49503

FOR THE DEFENDANT:

TONYA L. KRAUSE  
920 McKay Tower  
Grand Rapids, MI 49503

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STATE APPELLATE  
DEFENDER OFFICE

LESLIE BROWN, CSR KENT COUNTY CIRCUIT COURT  
(616) 336-3786

## T A B L E        O F        C O N T E N T S

WITNESSES:    (None) .

EXHIBITS:     (None) .

1 Grand Rapids, Michigan

2 Friday, November 19, 1993

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5 MS. KRAUSE: Good morning, your Honor.

6 THE COURT: Good morning.

7 MS. KRAUSE: Tonya Krause on behalf of the  
8 defendant, Stephen Dennis Turner.

9 This is our motion for an in-chamber  
10 proceeding to determine whether spousal-privilege applies in  
11 this case. By way of background, the Court is aware that this  
12 is a co-defendant case.

13 The co-defendant, Daniel Turner, is  
14 charged with child enticement, two counts of criminal sexual  
15 conduct in the first degree, and is a habitual offender.

16 My client, Stephen Turner, is charged with  
17 the charge of CSC first, as an aider and abettor and CSC  
18 second.

19 Your Honor, the police have questioned my  
20 client<sup>'s wife</sup> twice in the course of this investigation. In the  
21 course of the investigation, Detective Karpowicz obtained  
22 statements from my client, twice, that are incriminating both  
23 to my client and potentially to the co-defendant.

24 I believe the case law indicates that the  
25 proper way to handle these statements is to determine, in-

1 camera, first of all, whether or not the spousal privilege  
2 applies.

3 If the Court determines that it does, then  
4 I obviously would be asking that the Court suppress the  
5 statements made by her and attempt, also, to prevent the  
6 prosecutor from calling her as a witness in my client's case.

7 As the Court is aware, there are  
8 discussions at this time that there will be separate jury for  
9 the separate defendants. Whether it comes to any other  
10 portion of the case, I don't know. But, as far as my client  
11 is concerned, we are including the spousal privilege and ask  
12 that that testimony not be brought in.

13 THE COURT: Is the child complainant in  
14 this case a child of these parties? I take it not.

15 MS. KRAUSE: No, sir.

16 THE COURT: Ms. Anspaugh?

17 MS. ANSPAUGH: Your Honor, I haven't  
18 talked to Kevin Bramble about the case. As long as it doesn't  
19 cause a delay in the date of trial, if he's present before any  
20 legal decisions are made, I wouldn't have any objections.

21 THE COURT: Well, I'm not sure, to be  
22 honest with you, that we need him present with respect to  
23 anything. If, in fact, it is true that these parties are  
24 married to one another, I don't think the spouse should be  
25 testifying at all.

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MS. KRAUSE: They were lawfully married at the time she made the statement to Detective Karpowicz and remain lawfully married in this state.

THE COURT: If we take a look at the statute of the Fisher case, which involves using information much like this for sentencing purposes, and that would tend to be acceptable. I'm not sure, however, in a trial if that is something else.

I'll take a look and let you know maybe yet this afternoon.

MS. KRAUSE: Thank you, your Honor.

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2STATE OF MICHIGAN)

3 ) SS

4COUNTY OF KENT )

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I, Leslie Brown, CSR, do hereby certify  
this to be a true, accurate, and complete transcript in the  
aforementioned case on the aforementioned date, comprised of  
Pages 1 through 5, inclusive.

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Leslie Brown CSR

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Court Reporter

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Hall of Justice

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Fourth Floor, Judge Kolenda

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