

STATE OF MICHIGAN
IN THE COURT OF APPEALS

MACOMB COUNTY PROSECUTOR

Plaintiff-Appellee

Court of Appeals No. 291628

Lower Court No. 09-1207-AP

-vs-

ANDREW PAUL OSANTOWSKI

Defendant-Appellant.

MACOMB COUNTY PROSECUTOR

Attorney for Plaintiff-Appellee

MARLA R. McCOWAN (P 57218)

Attorney for Defendant-Appellant

H. STEVEN LANGSCHWAGER (P 52380)

Attorney for Intervenor Parole Board

DEFENDANT-APPELLANT'S
MOTION TO EXPEDITE APPEAL

STATE APPELLATE DEFENDER OFFICE

BY: MARLA R. McCOWAN (P 57218)

Assistant Defender

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NOW COMES Defendant-Appellant Andrew Paul Osantowski, by and through his attorneys, the **STATE APPELLATE DEFENDER OFFICE**, by **MARLA R. McCOWAN** and moves this Honorable Court to Expedite his Appeal, and says in support thereof that:

1. In the summer of 2005, Defendant-Appellant was convicted and sentenced to 2 ½ to 20 years in prison for the offenses of making a false report or threat of terrorism and using a computer to commit a crime, to be served consecutively to the mandatory term of two years in prison for felony firearm convictions. *People v. Osantowski*, 481 Mich. 103 (2008).

2. At sentencing on July 21, 2005, Mr. Osantowski received 308 days of credit for the time that he had spent incarcerated in jail prior to being convicted of the offenses. The

Michigan Department of Corrections calculated Mr. Osantowski's earliest release date as March 15, 2009.

3. On or about December 4, 2008, the Michigan Department of Corrections generated a "Parole Board Notice of Decision" reflecting that on November 20, 2008 Mr. Osantowski was granted parole. The "Parole Board Notice of Parole" was disseminated through the LEIN system to the Macomb County Prosecutor on or about February 23, 2009.

4. On March 13, 2009, the Macomb County Prosecutor filed an Application for Leave to Appeal the Parole Board decision to grant parole with the Macomb County Circuit Court.

5. As set forth in Defendant-Appellant's Brief on Appeal, and incorporated herein, the Michigan Parole Board took action on April 13, 2009, again granting parole to Mr. Osantowski, with a projected parole date of May 13, 2009.

6. Macomb County Circuit Court Judge Richard Caretti reversed the Parole Board decision to grant parole to Mr. Osantowski in Court and in a written opinion issued on April 20, 2009.

7. Defendant-Appellant filed an Application for Leave to Appeal on April 23, 2009, arguing that the Circuit Court abused its discretion in reversing the Parole Board. With that Application for Leave to Appeal, Defendant-Appellant sought Immediate Consideration. The Macomb County Prosecutor opposed the application on May 1, 2009. This Court granted Immediate Consideration and Granted Defendant-Appellant's Application for Leave to Appeal on May 8, 2009.

8. Defendant-Appellant timely filed his brief on appeal on May 11, 2009; the Parole Board filed its brief on appeal on May 29, 2009; the Macomb County Prosecutor filed its brief on June 5, 2009. No other briefs are expected to be filed.

9. But for the Circuit Court's ruling, Mr. Osantowski would have been paroled on or about May 13, 2009.

10. Defendant-Appellant prays that this Honorable Court will expedite his appeal, by placing it on the case call as soon as possible. An expedited appeal would not only be in the interests of justice and consistent with the Parole Board's determination that Mr. Osantowski should have been released from prison on May 13, 2009.

WHEREFORE, Defendant-Appellant respectfully requests that this Honorable Court GRANT the within Motion to Expedite Appeal, by placing the case on the case call as soon as possible.

Respectfully submitted,

STATE APPELLATE DEFENDER OFFICE

BY: /s/ Marla R. McCowan
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Dated: June 9, 2009

