

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED

Plaintiff-Appellee,

No. 170331

LC No. 93-000527-FH

ANTONIO LAMONT GROVER,

Defendant-Appellant.

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Before: Markman, P.J., and Marilyn Kelly and L. V. Bucci,\* JJ.

MARKMAN, P.J. (concurring in part and dissenting in part).

I join in the reasoning and holding of the majority opinion with the exception of its conclusion in part III that the prosecutor committed reversible error by his characterization of defense counsel's role at trial. While I agree that such remarks were inappropriate, I would reverse defendant's conviction in this case only because of the prosecutor's conduct described in parts I and II of the majority opinion. In *People v Dalessandro*, 165 Mich App 569, 579-80; 419 NW2d 609 (1988), the prosecutor stated that the evidence presented by defense counsel,

[I]s a sham, meant to mislead you. It's a bunch of lies . . . It's disreputable . . . They're lies. They're damnable lies. They're demonstrable lies. They're fabrications of evidence.

In the instant case, on the other hand, all that the prosecutor stated was that defense counsel tried to "trip" a witness through his cross-examination. I do not believe that, by itself, such a remark could conceivably have prejudiced defendant sufficiently to warrant a new trial. The majority opinion would extend the *Dallesandro* principle significantly beyond the facts in that case.

/s/ Stephen J. Markman

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\* Circuit judge, sitting on the Court of Appeals by assignment.