

# Court of Appeals, State of Michigan

## ORDER

People of MI v Robert Hemp

Docket No. 277171

LC No. 02-008007-01

Karen M. Fort Hood  
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly  
Judges

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The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's March 16, 2007 order is REVERSED to the extent it granted defendant's motion for relief from judgment and a new trial on the criminal sexual conduct charges. The trial court's decision to grant a new trial on the basis of newly discovered evidence is reviewed for an abuse of discretion. See *People v Cress*, 468 Mich 678, 691; 664 NW2d 174 (2003). Where newly discovered evidence takes the form of a recantation, it is traditionally suspect and untrustworthy. See *People v Canter*, 197 Mich App 550, 559; 496 NW2d 336 (1992). In this case, the recantation is even more suspect and untrustworthy because the victim subsequently repudiated the recantation. Also, in light of the victim's repudiation, the recantation does not make a different result probable on retrial. See generally, *Cress, supra* at 692. Under the circumstances of this case, the trial court abused its discretion in granting defendant a new trial.

This order shall have immediate effect. MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 01 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk