Court of Appeals, State of Michigan

ORDER

People of MI v Kevin Robert Mackin

Docket No. 281229

LC No. 05-009694-01; 06-001526-01

Christopher M. Murray
Presiding Judge

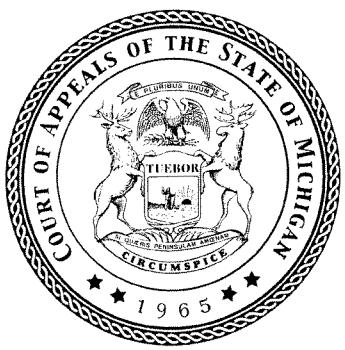
Michael J. Talbot

Kirsten Frank Kelly
Judges

The Court orders that the motion to file supplemental statement of facts after receipt of transcript of ruling is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the September 25, 2007, order of the Wayne Circuit Court dismissing charges of ethnic intimidation and conspiracy to commit ethnic intimidation hereby is REVERSED. The record does not reflect that the prosecution had the deliberate intent to provoke defendant into moving for a mistrial; thus, double jeopardy does not bar retrial on those charges. See *People v Lett*, 466 Mich 206; 644 NW2d 743 (2002); *People v Dawson*, 431 Mich 234; 427 NW2d 886 (1988). The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



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

FEB 05 2008
Date

Sandra Schultz Mengel
Chief Clerk