

# Order

Michigan Supreme Court  
Lansing, Michigan

October 5, 2007

Clifford W. Taylor,  
Chief Justice

Rehearing No. 538

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly

127897

Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,

v

MAURICE LAMONT NYX,  
Defendant-Appellee.

SC: 127897  
COA: 248094  
Wayne CC: 02-007289-01

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In this cause, a motion for rehearing is considered, and it is DENIED.

CORRIGAN, J., concurs and states as follows:

I concur in the denial of the motion for rehearing, but I write separately to clarify that double jeopardy principles do not bar the prosecutor from charging defendant with and retrying him for second-degree criminal sexual conduct. Defendant may be retried for that offense because he successfully appealed his conviction and the reversal was *not* based on insufficient evidence to support the guilty verdict. See *Burks v United States*, 437 US 1 (1978); *Tibbs v Florida*, 457 US 31 (1982); *Lockhart v Nelson*, 488 US 33 (1988).

WEAVER, J., joins the statement of CORRIGAN, J.

YOUNG, J., concurs and states as follows:

I join in Justice Corrigan's concurrence in the denial of the appellant's motion for rehearing, as it is unnecessary for this Court to provide further explication on what is a bedrock double jeopardy principle. See *United States v Ball*, 163 US 662 (1896); *Stroud v United States*, 251 US 15 (1919); *Louisiana ex rel Francis v Resweber*, 329 US 459 (1947); *Green v United States*, 355 US 184 (1957); *United States v Tateo*, 377 US 463

(1964); *United States v Ewell*, 383 US 116 (1966); *United States v Scott*, 437 US 82 (1978); *Tibbs v Florida*, 457 US 31 (1982); *Justices of Boston Muni Court v Lydon*, 466 US 294 (1984); *Montana v Hall*, 481 US 400 (1987); *Lockhart v Nelson*, 488 US 33 (1988); *Monge v California*, 524 US 721 (1998).



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 5, 2007

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk