

COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, MARION COUNTY

State v. Moore

2026-Ohio-167 (3d Dist. Jan. 20, 2026) · No. 9-24-56 · Decided January 20, 2026

SUMMARY

The Ohio Third District Court of Appeals affirmed Gerry L. Moore’s conviction and 11-year prison sentence for conspiracy to commit aggravated murder. The court held that the law-of-the-case doctrine barred reconsideration of Moore’s double-jeopardy argument because the issue had been decided in his prior interlocutory appeal. The court concluded that improper venue in the prior Erie County proceedings did not trigger double jeopardy and affirmed the Marion County judgment.

CASE DETAILS

COURT	Court of Appeals of Ohio, Third Appellate District, Marion County
WRITING FOR THE COURT	William R. Zimmerman; John R. Willamowski; Juergen A. Waldick
JURISDICTION	Ohio Court of Appeals, Third Appellate District, Marion County
DECIDED	January 20, 2026
DOCKET	9-24-56
DISPOSITION	affirmed
PROCEDURAL POSTURE	Moore appealed from the October 24, 2024 sentencing judgment of the Marion County Court of Common Pleas, arguing that the trial court erred by failing to dismiss the case on double-jeopardy grounds.
STANDARD OF REVIEW	The court applied the law-of-the-case doctrine and reviewed whether extraordinary circumstances or injustice warranted reconsideration of the prior appellate decision.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Gerry L. Moore v. State of Ohio

TOPICS

- double jeopardy criminal procedure appellate procedure interlocutory appeal sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the law-of-the-case doctrine barred Moore from relitigating his double-jeopardy challenge after the Third District had rejected the same challenge in his prior interlocutory appeal.
2. Whether the prior prosecution's termination for improper venue barred the Marion County prosecution under the Double Jeopardy Clause.

HOLDINGS

1. The law-of-the-case doctrine barred reconsideration of Moore's double-jeopardy challenge because the issue had been fully briefed, argued, and decided in the prior interlocutory appeal, and no extraordinary circumstances or injustice warranted departure from that decision.
2. A judicial determination that venue is improper does not trigger double jeopardy and therefore does not bar retrial of the charges in the proper venue.

KEY QUOTATIONS

“The doctrine of the law of the case provides that “the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels.”” (¶ 8)

“Since the issue of double jeopardy was fully briefed, argued and decided in Moore’s interlocutory appeal, we adhere to the law-of-the-case doctrine and decline to revisit our prior decision.” (¶ 11)

FACTUAL BACKGROUND

Moore was indicted in Marion County for conspiracy to commit aggravated murder, attempted aggravated murder, conspiracy to commit kidnapping, and attempted kidnapping, with repeat-violent-offender specifications. The charges arose after an earlier Erie County prosecution was vacated because venue was improper, and Moore argued that retrying him in Marion County violated double jeopardy. After the trial court denied his motion to dismiss, Moore pleaded guilty to conspiracy to commit aggravated murder in exchange for dismissal of the remaining counts and specifications and received an eleven-year prison sentence.

PROCEDURAL HISTORY

Moore was indicted in Marion County on conspiracy and attempted aggravated-murder and kidnapping charges. After an earlier Erie County prosecution was vacated for improper venue and Moore was reindicted in Marion County, the trial court denied his motion to dismiss on double-jeopardy grounds. Moore previously pursued an interlocutory appeal, in which the Third District affirmed. He later pleaded guilty to conspiracy to commit aggravated murder under a negotiated plea agreement and was sentenced to eleven years in prison. In this appeal from the sentencing judgment, the Third District applied the law-of-the-case doctrine and affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The cause was remanded to the trial court solely for execution of the judgment for appellate costs, and the court directed the clerk to certify the opinion and judgment entry as the mandate under App.R. 27 and serve them under App.R. 30.

CASES CITED

- State v. Saxon, 2006-Ohio-1245, ¶ 18
- Nolan v. Nolan, 11 Ohio St.3d 1, 3-5 (1984)
- State v. Morrissey, 2022-Ohio-3519, ¶ 11 (3d Dist.)
- State v. Moore, 2024-Ohio-1736, ¶ 5-6, 42-43 (3d Dist.)
- State v. Moore, 2022-Ohio-1460, ¶ 1
- United States v. Smith, 599 U.S. 236, 252-254 (2023)

INSTRUCTIONS FOR AN AI ASSISTANT

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