

SUPREME COURT OF MICHIGAN

People v. Phillips, 469 Mich. 390

666 N.W.2d 657 (2003) · No. 121545 · Decided August 7, 2003

SUMMARY

The Michigan Supreme Court held that a defendant accused of certain criminal sexual conduct offenses retains the statutory right to request a polygraph examination until a guilty verdict, rather than only until jeopardy attaches. The court nevertheless affirmed the conviction, concluding that the failure to administer the examination was not outcome-determinative given the strength of the prosecution’s evidence and the inadmissibility of polygraph results at trial.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Corrigan, C.J.; Cavanagh, J.; Weaver, J.; Taylor, J.; Young, J.
JURISDICTION	Michigan
DECIDED	August 7, 2003
DOCKET	121545
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed by right from the denial of his motion for a new trial based on the alleged denial of his statutory right to a polygraph examination. The Michigan Court of Appeals affirmed on the ground that defendant forfeited the right when jeopardy attached. The Michigan Supreme Court affirmed, but on different reasoning.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Preserved nonconstitutional error is reviewed for whether it was more probable than not outcome-determinative after examination of the entire cause.
PRECEDENTIAL VALUE	Published Michigan Supreme Court opinion; precedential.
PARTIES	Keith Richard Phillips v. People of the State of Michigan

TOPICS

- statutory interpretation
- plain meaning rule
- criminal procedure
- evidence
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether MCL 776.21(5) permits a defendant accused of enumerated criminal-sexual-conduct offenses to request a polygraph examination after trial has begun but before a verdict.
2. Whether the failure to provide the requested polygraph examination required a new trial or administration of the examination.

HOLDINGS

1. Under the clear and unambiguous language of MCL 776.21(5), a defendant's statutory right to request a polygraph examination is lost only when the defendant is found guilty and is no longer merely alleged to have committed the offense. The right is not extinguished when jeopardy attaches or merely because trial has begun.
2. Although the trial court erred by failing to provide the requested examination before the guilty verdict, Phillips was not entitled to a new trial or administration of a polygraph examination because he failed to show that the error was more probable than not outcome-determinative.

KEY QUOTATIONS

“Because the statute does not otherwise provide for a time limit within which to exercise the right, under the clear and unambiguous language of M.C.L. § 776.21(5), the right is lost only when the presumption of innocence has been displaced by a finding of guilt, i.e., when an accused is no longer “alleged” to have committed the offense.” (660)

“In cases involving preserved, nonconstitutional error, a defendant must demonstrate, “after an examination of the entire cause,” that it “is more probable than not that the error was outcome determinative.”” (660-661)

FACTUAL BACKGROUND

A police officer found sixty-seven-year-old Keith Phillips and a fourteen-year-old victim unclothed below the waist in the back seat of a car in an isolated rural area. The officer saw Phillips remove his hand from between the victim's legs, and the victim reported digital penetration. After receiving and waiving his Miranda rights, Phillips admitted digitally penetrating the victim and gave a detailed account of his conduct.

PROCEDURAL HISTORY

A jury convicted Phillips of first- and second-degree criminal sexual conduct. Before trial, he requested a statutory polygraph examination, but the scheduled examinations did not occur; he renewed his request during jury deliberations and after conviction. The circuit court denied his motion for a new trial, and the Court of Appeals affirmed, concluding that the right was forfeited once jeopardy attached. The Supreme Court held that the Court of Appeals stated the wrong rationale but affirmed because the error was not outcome-determinative.

DISPOSITION

affirmed

CASES CITED

- People v. Sterling, 154 Mich. App. 223, 397 N.W.2d 182 (1986)
- People v. Jones, 467 Mich. 301, 304, 651 N.W.2d 906 (2002)
- Lesner v. Liquid Disposal, Inc., 466 Mich. 95, 99, 643 N.W.2d 553 (2002)
- People v. Pasha, 466 Mich. 378, 382, 645 N.W.2d 275 (2002)
- People v. Wager, 460 Mich. 118, 123 n. 7, 594 N.W.2d 487 (1999)
- Wickens v. Oakwood Healthcare Sys., 465 Mich. 53, 60, 631 N.W.2d 686 (2001)
- People v. Stone, 463 Mich. 558, 562, 621 N.W.2d 702 (2001)
- Roberts v. Mecosta Co. Gen. Hosp., 466 Mich. 57, 63, 642 N.W.2d 663 (2002)
- Sun Valley Foods Co. v. Ward, 460 Mich. 230, 236, 596 N.W.2d 119 (1999)
- People v. Carter, 462 Mich. 206, 216, 612 N.W.2d 144 (2000)
- People v. Carines, 460 Mich. 750, 762 n. 7, 597 N.W.2d 130 (1999)
- People v. Lukity, 460 Mich. 484, 495-496, 596 N.W.2d 607 (1999)
- People v. Ray, 431 Mich. 260, 265, 430 N.W.2d 626 (1988)
- People v. Barbara, 400 Mich. 352, 364, 411-414, 255 N.W.2d 171 (1977)
- DeLong v. Muskegon Co. Bd. of Supervisors, 111 Mich. 568, 570, 69 N.W. 1115 (1897)
- People v. Rogers, 140 Mich. App. 576, 580, 364 N.W.2d 748 (1985)
- Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)

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