

# Court of Appeals, State of Michigan

## ORDER

People of MI v Sean Darnell Daniels

Docket No. 364929

LC No. 07-024398-01-FC

Michael J. Riordan  
Presiding Judge

Thomas C. Cameron

Noah P. Hood  
Judges

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The motion to waive fees is GRANTED for this case only.

Pursuant to MCR 7.205(E)(2), in lieu of granting leave to appeal, we VACATE the Wayne Circuit Court's September 27, 2022 order and REMAND this matter to that court for further proceedings consistent with this order.

The trial court's analysis was erroneous in several respects. First, the trial court erred by utilizing the *Cress*<sup>1</sup> test as a basis to conclude that defendant's successive 6.500 motion was "precluded" (i.e., *procedurally* barred) under MCR 6.502(G). See *People v Swain*, 499 Mich 920 (2016) ("*Cress* does not apply to the procedural threshold of MCR 6.502(G)(2)").

Second, the trial court erred by holding that "newly available" evidence is categorically insufficient to warrant the grant of a new trial under *Cress* and its progeny. See *People v Rao*, 491 Mich 271, 282-283; 815 NW2d 105 (2012) (holding that, even if a defendant was actually aware of certain evidence at the time of trial, that defendant may nevertheless satisfy the "newly discovered" evidence prong of the *Cress* test by demonstrating that he or she employed "*reasonable diligence* to make that evidence available and produce it at trial").

Finally, the trial court erred by relying on *People v Terrell*, 289 Mich App 553, 559; 797 NW2d 684 (2010), citing *People v Davis*, 199 Mich App 502, 516; 503 NW2d 457 (1993), for the proposition that "[n]ewly discovered evidence does not require a new trial where it would merely be used for impeachment purposes or where it relates only to a witness's credibility." Both *Terrell* and *Davis* have since been overruled on that very point. See *People v Grissom*, 492 Mich 296, 319-320; 821 NW2d 50 (2012) ("To the extent that any Michigan decisions impose a per se prohibition against granting a new trial in light of newly discovered impeachment evidence, they are hereby overruled.").

Because the trial court's decision to deny relief from judgment was founded on legal error, it necessarily constituted an abuse of discretion. See *id.* at 321. In such circumstances, the appropriate remedy is to remand for the trial court to reconsider the matter under the appropriate legal framework. See

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<sup>1</sup> *People v Cress*, 468 Mich 678; 664 NW2d 174 (2003).

*id.* at 321-322. On remand, the trial court shall do so promptly, reconsidering this matter on the merits in light of this order.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

  
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Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

July 3, 2023

\_\_\_\_\_  
Date

  
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Chief Clerk