

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

MARTRICE ANTON MITCHELL,

Defendant-Appellee.

UNPUBLISHED
November 1, 2002

No. 221582
Eaton Circuit Court
LC No. 99-000036-FH

ON REMAND

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ROBERT PARNELL HIGGINS,

Defendant-Appellee.

No. 221586
Eaton Circuit Court
LC No. 99-000035-FH

Before: Bandstra, P.J., and Cavanagh and Zahra, JJ.

PER CURIAM.

We consider this case again pursuant to an order of our Supreme Court remanding it to us for reconsideration in light of *People v Hardiman*, 466 Mich 417; 646 NW2d 158 (2002). *People v Mitchell*, 467 Mich 859; ___ NW2d ___ (2002). We again affirm.

In *Hardiman*, *supra*, the Supreme Court reversed the rule against allowing an “inference upon an inference” to establish evidence sufficient for a finding of criminal guilt or, in this case, a bind over on a criminal charge. *Id.* at 428. The “inference upon an inference” rule had been established by our Supreme Court in *People v Atley*, 392 Mich 298; 220 NW2d 465 (1974), a precedent that we cited in our previous opinion here.

However, we did not conclude that the evidence here was insufficient to support the bind over on the conspiracy charge unless inferences were piled upon each other. Instead, we concluded that there was simply insufficient evidence, considered in any manner, to support the bind over. *People v Mitchell*, unpublished opinion per curiam of the Court of Appeals, issued June 23, 2000 (Docket Nos. 221582, 221586), slip op at 2-3. Having reviewed the record again,

we continue to reach that conclusion and affirm the circuit court's decision to quash the conspiracy charge.

We affirm.

/s/ Richard A. Bandstra

/s/ Mark J. Cavanagh

/s/ Brian K. Zahra