



Michigan Supreme Court Case #162121 *AFT Michigan v Project Veritas*

Under Michigan’s Eavesdropping law it is a felony punishable by up to two years and \$2,000 to willfully use any “device” to “eavesdrop” on a conversation without the consent of all participants in that conversation. It is also a felony for a person to “use or divulge” any information that they know was obtained through illegal eavesdropping.

Michigan courts have consistently recognized an important exception to Michigan’s eavesdropping statute: it does not apply to recordings you make of your own conversations; it only applies to conversations of “other” people. If you are a participant in the conversation, you are free to record, even without the permission of any other participants.

Since 1982, Michigan has been referred to as a “one-party” consent state for eavesdropping if the person recording is a party to that conversation.

However, in 2019 a ruling from U.S. District Judge Linda Parker, in the federal district court for the Eastern District of Michigan, called that interpretation into question. In *AFT Michigan v. Project Veritas*, the Court held that Michigan’s eavesdropping statute, MCL 750.539c, requires all parties in a private conversation – not just one party – to consent to recording it.

Around the time the *AFT* decision was reached, a different judge in the Eastern District of Michigan came to a different conclusion. The Court in *Fisher v. Perron* elected to follow the prodigy of case law supporting one-way consent.

As a result, Michigan Attorney General Dana Nessel intervened and asked the Michigan Supreme Court to weigh in. However, on May 26, 2021, the Michigan Supreme Court stated that it would not weigh in on the issues.

On November 8, 2021, U.S. District Judge Linda Parker, in the federal district court for the Eastern District of Michigan, considered the prior ruling and issued an Opinion & Order, resulting in dismissal of *AFT Michigan’s* case.

As it stands, Michigan case law continues to support a one-way consent standard as to a participant in a conversation.

MCPI’s Involvement

MCPI was not a party to the case, but had a strong interest in the matter. Earlier this year MCPI partnered *Michigan Association of Security and Investigative Professionals* (MASIP) to retain an attorney and file an Amicus Brief in support of the current law. MCPI was one of twelve parties who submitted Amicus Briefs with the intent of influencing the court’s decision.

Additional Information

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<https://www.courts.michigan.gov/c/courts/msc/case/162121/>

United States District Court, Eastern District of Michigan, Southern Division Case #17-13292 Opinion and Order Filed 11/08/2021



**Project Veritas_AFT --
Order Reversing Wire**

Lansing Legal Examiner News Article published November 17, 2021

“Eavesdropping in Michigan, The Participant Exception, and One-Way Consent: Where do we stand and where are we going”

<https://lansing.legalexaminer.com/workplace/eavesdropping-in-michigan-the-participant-exception-and-one-way-consent-where-do-we-stand-and-where-are-we-going/>