



February 20, 2013

## Evans v. Michigan

### *The Double Jeopardy Clause Bars Retrial Of A “Merits-Related” Directed Verdict Even If The Trial Court Misapplies The Law Or Improperly Evaluates The Evidence*

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In *Evans v. Michigan*, No. 11-1327 (Feb. 20, 2013), Evans was on trial for arson. After the state rested, the trial court granted Evans’ motion for a directed verdict, concluding that the prosecution failed to prove an essential element of the offense; that the burned building was not a dwelling. The Michigan Supreme Court reversed and remanded for a new trial, finding that the acquittal was erroneous because the prosecution was not required to prove that the burned building was not a dwelling. The U. S. Supreme Court granted a writ of certiorari to determine “whether retrial is barred when a trial court grants an acquittal because the prosecution failed to prove an ‘element’ of the offense that, in actuality, it did not have to prove.”

The Court held that retrial is barred by the Double Jeopardy Clause. Relying on precedent, the Court stated that “our cases have defined an acquittal to encompass any ruling that the prosecution’s proof is insufficient to establish criminal liability for an offense.” Any “merits-related ruling conclude proceedings absolutely.” Thus, it does not matter if the ruling is the result of the trial court’s improper evaluation of the evidence, or an egregious interpretation of the law.

In so holding, the Court distinguished terminations of trials on a basis unrelated to factual guilt or innocence. For example, the Double Jeopardy Clause does not bar retrial where the termination was the result of a properly granted mistrial. The relevant distinction is between judicial determinations that go to the criminal defendant’s lack of criminal culpability and those that hold that a defendant, although criminally culpable, may not be punished because of a procedural error. In other words, “Culpability (*i.e.*, the ‘ultimate question of guilt or innocence’) is the touchstone, not whether any particular elements were resolved or whether the determination on nonculpability was legally correct.” The distinction is not on the form of the trial court’s actions, but rather on whether it serves substantive purposes or procedural ones. Here, Evans’ trial ended in an acquittal when the court ruled that the prosecution failed to produce sufficient evidence of his guilt. Therefore, the Double Jeopardy Clause barred his retrial for arson.