

MICHIGAN COURT OF APPEALS DECISIONS - UNPUBLISHED CASES

People v. Hinzman, No. 308909, July 24, 2012 (Michigan Court of Appeals):

Issue: Whether the Defendant was able to successfully assert the affirmative defense under Section 8 of the MMMA?

Holding: Applying the Section 8 defense as interpreted by the Supreme Court in *King* and *Kolaneck*, the Court held, in pertinent part, that defendants could not establish that the amount of marihuana they possessed was not more than “reasonably necessary” to provide uninterrupted availability.

People v. Kiel, No. 301427, July 17, 2012 (Michigan Court of Appeals):

Issue: Whether the Defendant was entitled to present an affirmative defense as to all of the marihuana plants on his property?

Holding: The Court held that In light of the most recent Michigan Supreme Court decision of *People v. Kolaneck*, No. 142695, decided May 31, 2012, which was decided after Kiel’s conviction, the *Kiel* Court of Appeals held that “While this instruction matches the requirements under § 4, the trial court erred in giving this instruction to the jury because, as discussed, *supra*, defendant was entitled to assert a § 8 affirmative defense at trial.

As clarified by our Supreme Court, § 4 applies only to *registered* qualifying patients, while § 8 provides an affirmative defense to “patients” generally. *Kolaneck*, ___ Mich at ___ (slip op at 19).

Because the jury was not properly instructed concerning the applicable affirmative defense, defendant is entitled to a new trial.”