

MICHIGAN COURT OF APPEALS DECISIONS - UNPUBLISHED CASES

People v. O'Connor, No. 312843, January 16, 2014 (Michigan Court of Appeals)

Issue: Whether the defendant met the requirements under Section 8 of the MMMA?

Holding: NO.

The Defendant asserted that the trial court improperly denied his motion to present a § 8 defense because the defense is available to unregistered patients, including unregistered caregivers.

The Court of Appeals disagreed.

The Court ruled as follows:

“We conclude that the trial court properly dismissed O'Connor’s untimely motion. MCL 333.26427(b) requires a person to bring a pretrial evidentiary hearing to prove the elements of MCL 333.26427(a)—the defense cannot be asserted for the first time at trial.

Here, O'Connor moved to present a § 8 defense at the conclusion of the first day of trial. Thus, O'Connor did not comply with the provisions of the act because he asserted the defense for the first time during trial. We conclude that the trial court did not err by denying O'Connor’s motion to present a § 8 defense.”

Affirmed.