

MICHIGAN LOWER COURT DECISIONS - CIRCUIT COURT DECISIONS

People v. Agro, Case No. 10-233920-FH, February 24, 2011 (Oakland County)

Issue: Whether the Defendant's home qualifies as an enclosed, locked facility.

Holding: The court held that the Defendant could not demonstrate that the house was inaccessible to anyone other than licensed growers or qualifying patients.

The Defendant argued that her home qualified as an enclosed, locked facility. The Court disagreed. The Defendant failed to explain how an entire house was of the same kind of character as a closet or room. Even if Defendant's house fell within the definition of an enclosed, locked facility, Defendant could not demonstrate that the house was inaccessible to anyone other than licensed growers or qualifying patients.

The police officer who executed the warrant testified that the front door was not locked.

In addition, Defendant testified that her children and grand-children were allowed in the home. Therefore, because there was no question of fact that Defendant's home was accessible by persons other than qualifying patients or caregivers, she failed to demonstrate that her home was an enclosed, locked facility within the meaning of MCL 333.26424(a).

Defendant also could not demonstrate that the basement where she grew and stored her marijuana was an enclosed, locked facility. It was undisputed that the police found marijuana plants in Defendant's basement where her home was searched. Both Defendant and the officer testified that there was no door on the stairs to the basement.

According to the Defendant, she placed a locked "baby gate" barrier on the stairs, but she failed to explain how the gates permitted access only by registered caregivers or qualifying patients.

Therefore, the Defendant failed to demonstrate that the marijuana in her basement was in an enclosed, locked facility as required by MMMA.

Note, on March 31, 2011, the Court of Appeals order "That the application for leave to appeal is denied for failure to persuade the Court of the need for immediate appellate review."