

MICHIGAN SUPREME COURT DECISIONS

People v. Bylsma, 493 Mich 17; 825 NW2d 543 (2012):

Ryan M. Bylsma, a registered primary caregiver under the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 *et seq.*, was charged in the Kent Circuit Court with manufacturing marihuana in violation of MCL 333.7401(1) and (2)(d). Defendant moved to dismiss the charge, asserting that as the registered primary caregiver of two registered qualifying patients, he was allowed to possess 24 marihuana plants and that the remainder of the 88 plants seized by the police from his leased unit in a building belonged to other registered primary caregivers and registered qualifying patients whom defendant had offered to assist in growing and cultivating the plants.

Issue: Whether the Defendant was in violation of the Michigan Medical Marihuana Act (MMMA) by failing to comply with Section 4 and Section of the Act?

Holding: The Michigan Supreme Court held that:

“Section 4 does not allow the collective action that defendant has undertaken because only one of two people may possess marihuana plants pursuant to §§ 4(a) and 4(b): a registered qualifying patient or the primary caregiver with whom the qualifying patient is connected through the registration process of the Michigan Department of Community Health (MDCH). Because defendant possessed more plants than § 4 allows and he possessed plants on behalf of patients with whom he was *not* connected through the MDCH’s registration process, defendant is not entitled to § 4 immunity.”

However, the Court further held that:

“The Court of Appeals erred when it concluded that defendant was not entitled to assert the § 8 affirmative defense solely because he did not satisfy the possession limits of § 4. Rather, in *People v Kolanek*, we held that a defendant need not establish the elements of § 4 immunity in order to establish the elements of the § 8 defense.”

It should be noted that on page 8 of its opinion, the Court stated that “In contrast to other states’ medical marihuana provisions, the MMMA does not explicitly provide for collective operations such as defendant’s.”

In conclusion, the Court affirmed the judgment of the Court of Appeals in part, reversed it in part, and remanded the case to the Kent County Circuit Court for further proceedings.