

 KeyCite Yellow Flag - Negative Treatment  
Distinguished by *State v. Derenne*, Wis., June 2, 1981

72 Mich.App. 411

Court of Appeals of Michigan.

PEOPLE of the State of Michigan,  
Plaintiff-Appellee,

v.

Scott CAMPBELL, Defendant-Appellant.

Docket No. 25401. | Nov. 23, 1976. | Released for  
Publication Feb. 15, 1977.

Defendant was convicted before the Shiawassee County Circuit Court, Peter J. Marutiak, J., of selling the controlled substance tetrahydrocannabinols, and he appealed. The Court of Appeals, Beasley, J., held that Controlled Substances Act was intended to include only the sale of **synthetic THC** in category of narcotics carrying a seven-year penalty, with sale of natural THC to be punished only under the provisions dealing with marijuana, and that since substance sold by defendant contained natural THC defendant should have been tried for sale of marijuana, a four-year felony.

Reversed.

West Headnotes (1)

[1] **Controlled Substances**

 Elements in General

Under Controlled Substances Act only the sale of synthetic tetrahydrocannabinols and not natural THC is included in the category of narcotics carrying a seven-year penalty; sale of natural THC is to be punished only under the provisions dealing with marijuana; hence defendant, who sold a substance containing natural THC, should have stood trial for sale of marijuana, a four-year felony, rather than sale of the controlled substance tetrahydrocannabinols. [M.C.L.A. §§ 335.301 et seq., 335.341\(1\)\(b\)](#).

[5 Cases that cite this headnote](#)

**Attorneys and Law Firms**

**\*\*870 \*411** Hoschner & Kurrle, by Harry A. Kurrle, Corunna, for defendant-appellant.

Frank J. Kelley, Atty. Gen., Robert A. Derengoski, Sol. Gen., Gerald D. Lostracco, Pros. Atty., for plaintiff-appellee.

Before BRONSON, P.J., and BEASLEY and ANDERSON,\* JJ.

**Opinion**

BEASLEY, Justice.

Defendant, Scott Campbell, was charged with and convicted by a jury of selling the controlled substance, tetrahydrocannabinols (THC), **\*412** contrary to [M.C.L.A. s 335.341\(1\)\(b\)](#); [M.S.A. s 18.1070\(41\)\(1\)\(b\)](#). Conviction on this charge carries a seven-year maximum penalty. Defendant was sentenced to not less than three nor more than seven years in prison.

THC is most commonly found in its natural state, being the active ingredient in marijuana, but it can also be produced synthetically. In the present case, it was uncontroverted that the substance sold by the defendant contained natural THC. Based on this fact, the defendant contended, both at trial and originally in this appeal, that he should have stood trial for sale of marijuana, a four-year felony, rather than the charged offense. He pointed to the language of the Controlled Substances Act, [M.C.L.A. s 335.301](#) Et seq.; [M.S.A. s 18.1070\(1\)](#) Et seq., and argued that the Act intended to include the sale of only **synthetic THC** in the category of narcotics carrying a seven-year penalty, while it intended sale of natural THC to be punished only under the provisions dealing with marijuana. On appeal the prosecution has agreed that the defendant's interpretation of the relevant **\*\*871** provisions of the Controlled Substances Act is the correct interpretation of those provisions. This Court agrees. The language of the Act supports this conclusion. Unless the statute is so interpreted, any person selling marijuana could be charged with sale of THC and become subject to the greater penalty since all marijuana contains at least a trace of natural THC. In enacting the Controlled Substances Act, the Legislature did not intend such an anomalous result.

Reversed.

72 Mich.App. 411, 249 N.W.2d 870

### All Citations

### Footnotes

- \* DAVID ANDERSON, Jr., former Circuit Court Judge, sitting on the Court of Appeals by assignment pursuant to [Const. 1963, art. 6, s 23](#) as amended in 1968.