

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

CASE NAME with Document Link	CASE DATE	COURT / SOURCE	REFERENCE NOTE
Americans for Safe Access v DEA	0/0/2013	FEDERAL COURT	Issue: Should the DEA initiate proceedings to reschedule marijuana? Holding: NO. The Court upheld the DEA's decision not to reschedule marijuana.
Birchfield v. North Dakota	06/23/16	USSC	Issue: If there is not a warrant, can a state statute criminalize a person's refusal to succumb to a blood alcohol test? Holding: NO. If there is an absence of a warrant, a state statute cannot criminalize a person's refusal to take a blood alcohol test. Although the Fourth Amendment permits warrantless breathe tests for drunk driving incidents, a warrant is required for blood alcohol tests. The Court determined that breath tests are not a Fourth Amendment violation because they "do not require piercing the skin and entail a minimum of inconvenience." On the contrary, a warrantless blood test violates the Fourth Amendment because they are physically invasive.
Braska v Department of Licensing and Regulatory Affairs	0/0/2014	MI COA DECISION	Issue: Whether an employee who possesses a registration identification card under the Michigan Medical Marihuana Act (MMMA) is disqualified from receiving unemployment benefits under the Michigan Employment Security Act (MESA) after the employee has been terminated for failing to pass a drug test? Holding: NO The Court held that "because there was no evidence to suggest that the positive drug tests were caused by anything other than claimants' use of medical marijuana in accordance with the terms of the MMMA, the denial of the benefits constituted an improper penalty for the medical use of marijuana under the MMMA, MCL 333.26424(a).
Casias v Wal-Mart	0/0/2012	FEDERAL COURT	Holding: NO, the court held that the MMMA provides a potential defense to criminal prosecution or other adverse action by the state, not private employment disputes.
Gonzalez v Raich	1/0/2015	USSC DECISION	Yes, the court held that the Commerce Clause gives Congress the authority to prohibit the local cultivation and use of Marihuana contrary to state law.
Kent Cty Prosecutor v City of Grand Rapids	0/0/2013	MI CIRCUIT COURT	Issue: Whether an amendment to the City of Grand Rapids' Charter concerning the possession, control, and giving away of marihuana is valid? Holding: The Court held that "The voters of Grand Rapids had the power to amend the City Charter and plaintiff has failed to show that any section of the charter amendment necessarily conflicts with state law." The Court reasoned that "The charter amendment merely creates a civil infraction in the City and directs the City's police resources away from some of these laws."

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

<p>MI AG Opinion 7250</p>	<p>08/31/10</p>	<p>MI AG Opinion 7250 Outside vendor</p>	<p>The Michigan Attorney General opined that the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq, does not prohibit the Department of Community Health from entering into an agreement or contract with an outside vendor to assist the department in processing applications, eligibility determinations, and the issuance of identification cards to patients and caregivers, if the Department of Community Health retains its authority to approve or deny issuance of registry identification cards.</p> <p>However, 2009 AACCS, R 333.121(2) promulgated by the Department of Community Health under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq, which provides that the confidential information "may only be accessed or released to authorized employees of the department," prevents the Department of Community Health from entering into a contract with an outside vendor to process registry applications or renewals.</p>
<p>MI AG Opinion 7259</p>	<p>6/28/2011</p>	<p>MI AG Opinion 7259 Cooperative Grows</p>	<p>The Attorney General opined that "The Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et. seq. prohibits the joint cooperative cultivation or sharing of marihuana plants because each patient's plants must be grown and maintained in a separate enclosed, locked facility that is only accessible to the registered patient or the patient's registered primary caregiver."</p>
<p>MI AG Opinion 7261</p>	<p>09/15/11</p>	<p>MI AG Opinion 7261 Smoking in Public</p>	<p>Attorney General opined that "2009 PA 188, which prohibits smoking in public places and food service establishments, applies exclusively to the smoking of tobacco products. Because marihuana is not a tobacco product, the smoking ban does not apply to the smoking of medical marihuana.</p> <p>"He further opined that "The Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq, prohibits qualifying registered patients from smoking marihuana in the public areas of food service establishments, hotels, motels, apartment buildings, and any other place open to the public."</p> <p>Lastly, he opined that "An owner of a hotel, motel, apartment building, or other similar facility can prohibit the smoking of marihuana and the growing of marihuana plants anywhere within the facility, and imposing such a prohibition does not violate the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq."</p>
<p>MI AG Opinion 7262</p>	<p>11/10/11</p>	<p>MI AG Opinion 7262 Return Of Marijuana</p>	<p>The AG was asked whether a law enforcement official who arrests a patient or caregiver must return marihuana found in that person's possession upon his or her release from custody. The AG concluded the return is not required.</p>
<p>MI AG Opinion 7270</p>	<p>05/10/13</p>	<p>MI AG Opinion 7270 Child Custody</p>	<p>MMMA and Child Protective Custody Opinions</p>
<p>People v Agro</p>	<p>0/0/2011</p>	<p>MI CIRCUIT COURT</p>	<p>Enclosed Locked area fail. Issue: Whether the Defendant's home qualifies as an enclosed, locked facility.</p> <p>Holding: The court held that the Defendant could not demonstrate that the house was inaccessible to anyone other than licensed growers or qualifying patients.</p>

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Amsdill	0/0/2014	MI COA DECISION	Issue: Whether the trial court erred when it ruled that the State of Michigan Supreme Court decision of State of Michigan v. McQueen should not be applied retroactively? Holding: Yes
People v Amsdill	07/30/13	COUNTY OF ST. CLAIR - Circuit Court Opinion	Defendants could not have been on notice that the Michigan Supreme Court would interpret the MMMA as it did. Its holding was not foreseeable. Applying the Court's interpretation of the Act to these defendants, making the conduct in which they were allegedly involved illegal, operates as an ex post facto law in violation of their due process rights. Accordingly, Defendants' Motion to Dismiss the charges filed against them is GRANTED.
People v Anderson COA Concurring	06/07/11	MI COA - Concurrence	Kalamazoo Township Police searched defendant's home after his estranged wife reported a possible break-in at the home. Found 15 marijuana plants in an upstairs bedroom and 11 plants behind the garage. Defendant charged with manufacturing marijuana. 7/24/12 UPDATE: The MI Supreme Court vacated the Court of Appeals judgment above and remanded the case to the Court of Appeals for reconsideration in light of Kolenk and King.
People v Anderson COA Majority	06/07/11	MI COA - Majority	
People v AUERNHAMMER	11/10/15	MI COA	mere presence
People v Barber	0/0/2014	MI DIST COURT	Improper Transportation of Marihuana
People v Barber	03/04/14	MI DIST COURT	Issue: Whether Michigan Compiled Law 750.574, (Improper Transportation of Marihuana), is unconstitutional? Holding: The Court held that "So Public Act 460 of 2012 is inconsistent as it limits transportation, a right granted by the Medical Marihuana Act, to certain criteria. Therefore, it's inconsistent with the act pursuant to Section 7 of the act. The act wins, because it handles all of medical marihuana, the act being the Medical Marihuana Act."
People v BLESCH	09/24/15	MI COA	Court finds lower court findings on 8a2 reasonable amount of marihuana was OK. Prima Facie sec8 evidence review.
People v Bosca	03/26/15	MI COA	Court will not overrule jury in a section 8 if the jury finds the defendant guilty.
People v Boughner	10/22/13	MI COA	Sentencing score errors
People v Brian Bebout Reed	0/0/2011	MI COA DECISION	Got physician statement after arrest-No Sec8
People v Brown	0/0/2012	MI COA DECISION	Evidence of non compliance before search warrant
People v Brown COA	08/28/12	MI COA	Defendant's former roommate informed police that he saw grow lights, ventilation fans and marihuana plants growing in the residence. defendant filed a motion to dismiss and for a evidentiary hearing. Defendant argued the facts included in the affidavit failed to establish probable cause that a crime was committed because the MMMA made it legal to possess and grow certain amounts of marijuana. The trial court agreed but they found that any possession of marijuana continues to violate the Public Health Code and is indicative of a criminal act sufficient for a probable cause finding.
People v Burke COA-Order	09/03/10	MI COA - Order	The Court of Appeals denied an application for leave based on Campbell's ruling that the MMA does not apply retroactively.

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Buthia	0/0/2011	MI CIRCUIT COURT	Issue: Whether a Defendant can use medical marihuana while on probation. Holding: Court ordered that the defendant's motion for the use of medical marihuana while on probation is DENIED.
People v Bylsma	0/0/2012	MSC DECISION	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."
People v Bylsma (AG AMICUS)	09/26/12	MI AG AMICUS	MI Attorney General AMICUS - Bill Schutte
People v Bylsma COA	09/27/11	MI COA	Defendant possessed 24 marihuana plants for his connected patients and possessed plants that belonged to other unconnected patients and caregivers. All the plants were cultivated inside defendant's rental space. Grand Rapids police seized all 88 plants and defendant was charged and convicted with the manufacture of marihuana. Defendant argued that nothing in the MMA prohibited a primary caregiver or qualifying patient from utilizing the same enclosed, locked facility. The Court of Appeals disagreed.
People v Bylsma MSC Syllabus		MI SC	
People v Campbell	0/0/2010	MI COA DECISION	Issue: Should the Michigan Medical Marihuana Act (MMMA) be retroactively applied? Holding: The court held that the MMMA should not be retroactively applied.
People v Campbell, Scott	11/23/76	MI COA - Reversal	Synthetic THC vs Natural THC
People v Carlton	11/24/15	MI COA	Michigan COA - Smoking in public place - Immunity Denied
People v Carlton	11/24/15	MI COA - Concurrence	Concurrence 02
People v Carruthers - Komorn	06/11/14	Blog Info	Case information (Komorn)
People v Carruthers - Supreme Court	06/11/14	MSC - Denial	Michigan Supreme Court-Order of Denial
People v Christner	03/21/13	MI COA	Patient buys marijuana for police, p2p , entrapment.
People v Cohen	07/19/11	MI COA	Distinctly different probable-cause standards distinguish the arrest and bind-over decisions, we reverse and remand.

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v COMPASSIONATE APOTHECARY, LLC	03/25/11	MI-COA ATTORNEY GENERAL BILL SCHUETTE'S AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFF- APPELLANT	Defendants' business activities of facilitating the transfer, delivery or sale of marihuana between registered qualifying patients and between registered primary caregivers and qualifying patients not in a registered relationship with the caregivers are not protected by the Michigan Medical Marihuana Act. Because defendants' activities are unprotected, they violate other existing laws and are illegal. Activities that are proscribed by law constitute a public nuisance. Based on the facts and law, the trial court erred in denying the people's complaint for abatement of a public nuisance.
People v Danto Majority COA Order	11/08/11	MI COA - Majority Order	Prosecution moved to admit evidence that defendant possessed packaged marihuana at a café in order to prove defendant's knowledge of other marihuana found at his residence. Court also addressed whether a defendant may assert the Section 8 affirmative defense. The court found that to assert the Section 8 affirmative defense, patients must comply with Section 7, which in turns requires patients to comply with the MMA as a whole. Here, there was evidence that marihuana was not grown inside an enclosed, locked facility in violation of Section 4. Because of this, defendant was precluded from raising a Section 8 affirmative defense.
People v Danto-Concurring COA	11/08/11	MI COA - Concurrence	The trial court issued an order stating "neither the Defendants nor their attorneys may make any reference in the presence of the jury to the Medical Marihuana Act or the use of the term medical marihuana in conjunction with, or in reference to, the marihuana present in this case." In Judge Gleicher's opinion, this order was overbroad, negatively affected defendants' ability to cross-examine witnesses and could violate the Confrontation Clause.
People v Dehko	0/0/2013	MI COA DECISION	Issue: Whether the defendant met the requirements under Section 8 of the MMMA? Holding: The Court ruled held that "Given defendant's chosen evidence, there is no question of fact regarding whether defendant satisfied the second element under § 8(a)(2)." "Here, even if the physician certification raised an inference of a bona fide patient physician relationship, because defendant failed to present any evidence regarding whether the amount of marihuana he possessed was reasonable, it is not necessary to determine whether he also established a question of fact with respect to the other elements of a § 8 defense, including whether he had a bona fide physician-patient relationship with his respective certifying physician."
People v Feezel	0/0/2010	MSC DECISION	Issue: Is 11-Carboxy-THC a derivative of Marihuana and a Schedule 1 Controlled substance? Holding: No, the court held that 11-Carboxy-THC is not a derivative of marihuana and therefore is not a Schedule 1 Controlled substance.
People v Ferretti	0/0/2011	MI CIRCUIT COURT	Issue: Whether the lower court erred in quashing the search warrant, suppressing the fruits of the searches, and dismissing the charges, Holding: The Court held that "In this matter, the new information would not affect the finding of probable cause. The only new information to be added to the affidavit is that defendants possess medical marihuana cards."

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Finney	09/09/09	MI CIRCUIT COURT	Sec 8 Element 2 fail.Issue: Whether the Defendant can assert an MMMA §8 defense.Holding: The Midland County Circuit Court ruled that the Defendant offered no evidence to the court with regard to element (2) of Section 8(a). The Court therefore had no basis at this time to conclude that the amount of marihuana in Defendant's possession on January 29, 2009 was not more than was reasonably necessary to ensure the uninterrupted availability of marihuana for the purpose of treating or alleviating the defendant's serious or debilitating medical condition within the meaning of element (2).
People v Finney & Wert	0/0/2011	MI CIRCUIT COURT	Issue: Are Defendants allowed to use medical marihuana while on probation? Holding: The Court ruled that the two probationers/defendants are not allowed the use of medical marihuana while on probation.
People v Firretti - Circuit Court Appeal	09/09/11	Macomb Circuit Court Appeal	COUNTER-ARGUMENT: The district court judge correctly ruled that the question of whether probably cause to search 34111 28 Mile Road in Lenox Township when examined against the backdrop of the MMA was not one to be undertaken by the police officers, but was vested in the examining magistrate and, therefore, police should have returned to the magistrate and advised her of both Appellees' status under the Act and allowed her to re-examine the facts in light of the new information
People v Frederick / Van Doorne	12/08/15	MI COA	Curtilage
People v GEBHARDT	10/16/12	MI COA	"Sharing" is delivery, even if its for medical marijuana patient. Reasonableness of evidence to jury is also checked.
People v Gingrich	11/06/14	MI COA	The circuit court ruled that a search without both probable cause and a warrant is generally unreasonable unless a recognized exception to the warrant requirement applied, and that in this case, the search and seizure was not permissible under the exigent circumstances, consent, plain view, or inevitable discovery exceptions.
People v Goodwin	12/09/14	MI COA	"fourth prong" of section 8, to notify family dr of mmj usage
People v Grant	0/0/2014	MI COA DECISION	Ignorance of the law is no defense. Issue: Whether the defendant should be excused from liability for the charged offenses because he reasonably – albeit mistakenly – believed that the co-defendant was growing marihuana in compliance with the Michigan Medical Marihuana Act (MMMA)? Holding: NO
People v Green	0/0/2013	MSC DECISION	Holding: The Michigan Supreme Court held as follows: "In Michigan v. McQueen, 493 Mich 135 (2013), this Court held that, under the MMMA, "§ 4 immunity does not extend to a registered qualifying patient who transfers marihuana to another registered qualifying patient for the transferee's use because the transferor is not engaging in conduct related to marihuana for the purpose of relieving the transferor's own condition or symptoms." Patient to Patient illegal .
People v Hartigan	04/05/16	MI COA	If police have a reason to be on your porch and smell marijuana, its probable cause
People v Hartwick	11/19/13	MI COA - Opinion	People v Hartwick: Increased Burden to Prove MMMA Defenses

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Hartwick	01/12/15	MSC - BRIEF AMICUS CURIAE OF THE MICHIGAN MEDICAL MARIJUANA ASSOCIATION	Amicus curiae respectfully requests this Court to overrule the judgment of the Court of Appeals on this matter, and hold 1) that Defendant Hartwick's case should be remanded to the circuit court with an order to acquit, 2) that patients and caregivers engaged in medical use of marijuana in accordance with the MMMA are not subject to enforcement under the MCS A and 3) because marijuana is no longer contraband per se. Brown is no longer good law.
People v Hartwick	0/0/2013	MI COA DECISION	Possession of MMA card not enough
People v Hartwick - Appellant Brief	08/04/14	MI SC Appellant Brief	
People v Hartwick - Appellee Brief	09/04/14	MI SC Appellee Brief	
People v Hartwick AMICUS	01/15/15	MSC AMICUS	MMMA
People v Hartwick Amicus CAMM	10/03/14	MI SC Amicus CAMM	
People v Hartwick MSC	01/15/15	MSC Opinion	Syllabus
People v Hartwick MSC Grant	06/11/14	MI SC Grant	Michigan Supreme Court - Grant
People v Heminger	11/20/14	MI COA	Jury instructions on SEC 8 case. prosecutor's closing argument was clearly and thoroughly improper.
People v Hicks	0/0/2011	MI CIRCUIT COURT	Prove medical history fail. Issue: Whether the defendant demonstrated a legitimate need for medical marihuana use. Holding: The court found that the defendant failed to demonstrate that a full assessment of his medical history and current condition were conducted or that he had a bona fide relationship with the doctor. Also, the court found that the defendant was not diagnosed with a serious or debilitating condition and defendant failed to prove that the amount of marihuana that he possessed was legitimate.
People v Hinzman COA	07/24/12	MI COA	Defendants were charged with the manufacture of 5-45 kilograms of marijuana in violation of MCL 333.7401. The officers testified that Defendants possessed 50 marijuana plants. Defendants contended they only possessed 35 plants. The Oakland County Circuit Court, Judge Martha D. Anderson, denied Defendants' motion to dismiss pursuant to Section 4 and found the Defendants failed to establish a question of fact regarding their Section 8 affirmative defenses. Defendants appealed both issues. The Court found the Defendants failed to present any evidence that they possessed an amount of marijuana reasonably necessary to ensure an uninterrupted supply for the treatment of their conditions. To this point, the Court found the Defendants failed to testify regarding how much marijuana they used, and how often they used it, and the certifying physicians failed to testify how much marijuana should be used.
People v Hinzman No 308909	0/0/2012	MI COA DECISION	Jury not instructed Retrial granted
People v Hinzman No 309351	0/0/2013	MI COA DECISION	LARA evidence

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Hosfeld	06/24/11	DISTRICT COURT	<p>Issue: Whether the Michigan Medical Marihuana Act is a defense against Marihuana being a schedule 1 controlled substance.</p> <p>Holding: The Court held Kazmierczak, supra, was still governing and that the act didn't remove marihuana from the realm of contraband. In addition, the Court held that the act created affirmative protections as opposed to legalizing anything and that the Deputy had no obligation to inquire about card status, rather a card holder had an obligation to advise the Deputy of their cardholder status.</p>
People v Johnson et al	0/0/2013	MI COA DECISION	<p>Issue: Is the rule of lenity applicable when construing the MMMA?</p> <p>Holding: NO.</p> <p>Issue: Should the Court of Appeals' and Supreme Court's decisions in State v McQueen be retroactively applied?</p> <p>Holding: YES.</p>
People v Jones	07/09/13	MI COA	<p>In this context, the question of whether Michigan residency is a prerequisite to valid possession of a registry identification card under the MMMA also arises. Because we hold that residency is a prerequisite to valid possession of a registry identification card and that questions of fact regarding the applicability of § 4 immunity must be resolved by the trial court, we vacate the trial court's order and remand for further proceedings.</p>
People v Kasprzak	10/03/12	MI COA ORDER	<p>SEC 4 immunity order dissent (might be fixed by tut/wick?)</p>
People v Keller COA	05/10/12	MI COA	<p>Defendant was convicted of manufacturing marijuana in violation of MCL 333.7401(2)(d)(iii) after police discovered 15 plants on his property. Approximately half of the plants were near some metal fencing, with the other half unsecured. Defendant argued that the term "enclosed, locked facility" was constitutionally vague. The Court of Appeals disagreed explaining that the statutory definition is intended to limit access to plants.</p>
People v Keller No 304022	05/10/12	MI COA DECISION	<p>Issue: Whether the plants on defendant's property were in an "enclosed, locked facility?" Holding: The Court held that "Those plants joined all the others as being readily accessible to a member of defendant's family, or any passerby his dogs did not decide to treat as a foe. The statute's requirement that the facility be enclosed and locked indicates that access to them is to be secured by something more than the grower's withholding of permission to unauthorized persons to access them. Because defendant grew more than 12 plants and failed to keep them in a secure, enclosed facility, the MMMA afforded him no defense to that general prohibition." Note: the new definition of "enclosed locked facility" in MCL 333.26423(d) which went into effect on April 1, 2013.</p>

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Kiel	07/17/12	MCOA	<p>Issue: Whether the Defendant was entitled to present an affirmative defense as to all of the marihuana plants on his property?</p> <p>Holding: The Court held that In light of the most recent Michigan Supreme Court decision of People v. Kolanek, 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. Kolanek, ___ 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."</p>
People v King	0/0/2012	MI COA DECISION	<p>Issue: What is an "enclosed locked facility"?</p> <p>Holding: The enclosed area itself must have a lock or other security device to prevent access by anyone other than the person licensed to grow marihuana.</p>
People v Kolanek	01/11/11	MI COA	Addressed the timing of the physician's recommendation in connection with a defendant's ability to assert the Section 8 affirmative defense.
People v Kolanek & King	0/0/2012	MSC DECISION	<p>Issue: Whether the plain language of the MMMA requires that a defendant asserting the affirmative defense under § 8 also meet the requirements under § 4?</p> <p>Holding: The court held, in pertinent part:</p> <ol style="list-style-type: none"> 1. The plain language of the MMMA does not require that a defendant asserting the affirmative defense under § 8 also meet the requirements of § 4. 2. Additionally, to meet the requirements of § 8(a)(1), a defendant must establish that the physician's statement occurred after the enactment of the MMMA and before the commission of the offense. 3. If a circuit court denies a defendant's motion to dismiss under § 8 and there are no material questions of fact, then the defendant may not reassert the defense at trial; rather, the appropriate remedy is to apply for interlocutory leave to appeal. <p>Physicians Statement prior to MMA invalid.</p>
People v Kolanek (AG AMICUS)	10/14/11	MI AG AMICUS	MI Attorney General AMICUS - Bill Schutte
People v Koon	0/0/2013	MSC DECISION	<p>Holding: The Michigan Supreme Court held that the "The immunity from prosecution provided under the MMMA to a registered patient who drives with indications of marihuana in his or her system but is not otherwise under the influence of marihuana inescapably conflicts with MCL 257.625(8), which prohibits a person from driving with any amount of marihuana in her or system. Under the MMMA, all other acts and parts of acts inconsistent with the MMMA do not apply to the medical use of marihuana. Consequently, MCL 257.625(8) does not apply to the medical use of marihuana."</p>
People v Koon	06/16/12	MSC - Application For Leave	Addressed whether the Motor Vehicle Code's "zero tolerance" provision, which prohibits operating a motor vehicle with any amount of a Scheduled 1 controlled substance in the driver's body, still applies if the driver is a patient under the Michigan Medical Marihuana Act (MMA). The court concluded the zero tolerance provision controls.
People v Lois Butler-Jackson	0/0/2014	MI COA DECISION	<p>Issue: Whether defendant's was immune from prosecution under MCL 333.26424(f) of the Michigan Medical Marihuana Act (MMMA)? Holding: NO</p> <p>Issue: Whether the defendant's conspiracy conviction must be vacated because her conduct was not illegal? Holding: YES</p>

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Malik	08/10/10	MCOA	<p>Holding: Yes, the court held that while evidence of a positive test for 11-Carboxy-THC is inadmissible, evidence of the presence of tetrahydrocannabinol (THC) in a Defendant's system is still relevant in determining whether the Defendant was operating the vehicle while intoxicated. The Court rejected the application of the Medical Marijuana Act retroactively.</p> <p>Defendant argued the statute unconstitutionally deprived him of due process rights because it was not based on actual impairment, but rather, the simple presence of THC, including its metabolite, 11-carboxy-THC, in his body. This metabolite is created while the body breaks down THC and contains no psychoactive elements itself. The circuit court agreed. The Supreme Court decision in Feezel was issued. Court of Appeals reversed and remanded for trial. MMA did not change the classification of marijuana as a scheduled 1. Leave to appeal was denied by the Michigan Supreme Court. 488 Mich 1054 (2011).</p>
People v Malik No 293397	0/0/2010	MI COA DECISION	11 Carboxy THC is inadmissible - THC in system is still relevant
People v Mazur	0/0/2014	MI COA DECISION	Office sticky notes paraphernalia-Enclosed facility
People v Mazur MSC	06/11/15	MI Supreme Court Syllabus	they are not marijuana paraphernalia under MCL 333.26424(g), and therefore defendant is not entitled to immunity
People v Mccleese	03/21/13	MI COA	Search Warrant invalid because of stale info in Affidavit
People v McQueen - MSC	02/03/13	MI Supreme Court Syllabus	
People v Nicholson	06/26/12	MI COA DECISION	Patients are subject to arrest if they do not have proof of their patient status "reasonably accessible" at the time of arrest
People v Nicholson COA	06/26/12	MI COA	In sum, we hold that defendant was not immune from arrest because his application paperwork for a registry identification card was not reasonably accessible at the location of his arrest. We further hold that because defendant did possess a registry identification card that had been issued before his arrest when being prosecuted, he is immune from prosecution unless evidence exists to show that his possession of marijuana at the time was not in accordance with medical use as defined in the MMMA or otherwise not in accordance with the provisions of the MMMA.
People v O'Connor	0/0/2014	MI COA DECISION	<p>Issue: Whether the defendant met the requirements under Section 8 of the MMMA?</p> <p>Holding: NO.</p>
People v Peters	0/0/2010	MCOA	Defendant appeals as of right from his conviction by jury of possession of marijuana. MCL 333.7403(2)(d). Defendant was sentenced as a second habitual offender under MCL 333.7413(2) to serve 90 days in jail and 18 months of probation. We affirm.
People v Placencia	11/22/15	MI COA	ex post facto
People v Pointer	10/11/12	MCOA	Court of Appeals reversed holding that Section 4 immunity is only available to medical marijuana patients that possess less than 2.5 ounces of useable marijuana AND less than 12 plants within an enclosed, locked facility.

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Prell	0/0/2011	MI CIRCUIT COURT	Expert doctor witness fail. Issue: Can a Defendant assert an MMMA defense when the Defendant's expert witness is not qualified under Daubert MRE 702? Holding: The Court found that Defendant was precluded from asserting MMMA defense. Essentially, Defendant had failed to demonstrate the necessary predicate for the testimony of her expert; namely, that her expert was qualified to render an opinion.
People v Randall	03/13/15	MI COA	Denial of Publishing - Letter
People v Randall COA	01/13/15	MI COA	Defendant appeals as of right from his convictions following a bench trial of manufacturing more than 20 but less than 200 marijuana plants, MCL 333.7401(2)(d)(ii), and possession of marijuana, MCL 333.7403(2)(d).1 Defendant was sentenced to 180 days, but his incarceration was stayed pending appeal. At issue is a ruling of the trial court denying his motion to dismiss under § 4 of the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 et seq. Because defendant fell under the protections of § 4, we vacate defendant's convictions and reverse the trial court's denial of defendant's motion to dismiss.
People v Randall COA Order	03/06/15	MI COA - Reconsider Denied	The Court orders that the prosecution's motion to amend its motion for reconsideration is GRANTED. The Court orders that the amended motion for reconsideration is DENIED.
People v Redden	0/0/2010	MI COA DECISION	Sec 4 and Sec 8 arguments
People v Redden - Concurrence	09/14/10	MI COA - Concurrence	<p>Issue: Can Defendants use the affirmative defense contained in §8 of the Michigan Medical Marihuana Act (MMMA), MCL 333.26428, if their registry identification card was acquired after the offense?</p> <p>Holding: Yes, the court held that registered patients under §4 and unregistered patients under §8 would be able to assert medical use of marihuana as a defense even though the defendant does not satisfy the registry identification card requirement of §4.</p> <p>Issue: What constitutes a physician-patient relationship?</p> <p>Holding: The doctor's recommendations have to result from assessments made in the course of bona fide physician-patient relationships and the Defendants have to see the physician for good-faith medical treatment not in order to obtain marihuana under false pretenses. [The Legislature has now passed a definitional statute: MCL 333.26423(a)]</p>

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Redden - Majority	09/14/10	MI COA - Majority	The prosecution argued the Defendants were barred from asserting the affirmative defense because they did not possess registry identification cards, did not prove a bona fide physician-patient relationship and failed to establish they possessed an amount of marijuana not more than reasonably necessary to ensure uninterrupted availability for the purpose of treating their medical conditions. The district court disagreed with the prosecution and dismissed the charges pursuant to the affirmative defense. The prosecution appealed to the circuit court, which reversed the district court and reinstated the charges. Defendants appealed the circuit court decision to the Court of Appeals. The Court of Appeals found that the MMMA contains two levels of protection and a registry identification card is NOT required to assert the Section 8 affirmative defense. This ruling was based on the MMMA's use of the terms "qualify patient" as distinct from "patient."
People v Redden - MSC	06/22/11	MI Supreme Court - Order	
People v Redden - MSC - AG Amicus	03/24/11	BRIEF OF ATTORNEY GENERAL BILL SCHUETTE AS AMICUS CURIAE	Amicus Curiae Attorney General Bill Schuette respectfully requests that this Honorable Court grant Appellant's Application for Leave to Appeal and affirm in part and reverse in part the Court of Appeals' September 14, 2010 Opinion. Further, this Court should grant leave. to allow all interested parties to brief the issues identified in this amicus brief and in Judge O'Connell's concurring opinion to clarify the MMMA for the benefit of registered qualifying c. patients and their physicians and primary caregivers, local government, law enforcement, the courts, and the citizens of this State.
People v Reed	08/31/11	MI COA Order	Defendant's marijuana plants were discovered before he obtained a physician's authorization. Kolanek held that in order to assert the affirmative defense, the patient or caregiver must obtain the physician's statement prior to arrest.
People v Reeves	04/23/15	MI COA	Shenanigans with prosecutor getting witness but then dismissing witness before defense can call witness.
People v Rose Jr	02/05/16	MSC ORDER	Defendant presented sufficient evidence to create a question for the jury with regard to whether defendant possessed only a "reasonably necessary" amount of marijuana "to ensure uninterrupted availability"
People v Salerno	0/0/2011	MI CIRCUIT COURT	Sec 8 -Sales and Doc did not know how much for treatment. Issue: Whether the defendant is entitled to assert the affirmative defense under Section 8 of the MMMA? Holding: The Court found that Defendant cannot assert the affirmative defense under Section 8 for several reasons.
People v SBRESNY	02/26/15	MI COA	Search warrant / affidavit in MMMA cases
People v Sherwood	07/28/15	MI COA	In sum, the trial court erred as a matter of law in concluding that under Dehko, defendant failed to offer evidence sufficient to create issues of material fact on the elements of a Section 8 defense. Defendant offered sufficient evidence to create genuine issues for the trier of fact as to each of the elements of the defense and the trial court erred in denying defendant's motion to present the affirmative defense during trial. Accordingly, we vacate defendant's conviction and sentence, reverse the trial court's order denying defendant's request to assert a Section 8 defense, and remand for a new trial

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Sinclair, John	03/09/72	MSC	Defendant was convicted before the Recorder's Court of Detroit, Wayne County, Robert J. Colombo, J., of illegal possession of marijuana and he appealed. The Court of Appeals, 30 Mich.App. 473, 186 N.W.2d 767, affirmed. After granting leave to appeal, the Supreme Court held that conviction would be reversed and defendant discharged; two judges being of opinion that statutory categorization of marijuana along with 'hard drug' narcotics for purposes of imposition of penalties denied equal protection, one judge being of opinion that statute denied right to liberty and pursuit of happiness, two judges being of opinion that marijuana cigarettes should have been excluded as evidence obtained as result of illegal entrapment, and two judges being of opinion that minimum sentence of 9 1/2 years constituted cruel and inhuman punishment. (For 2 Joints)
People v Sommer	09/22/15	MI COA	Material questions of fact remain
People v Spencer	05/03/12	MI COA	The prosecutor appeals the trial court's order that granted defendant's motion to suppress evidence obtained from the search of defendant's pole barn. The prosecutor charged defendant with one count of delivery or manufacturing of between 5 and 45 kilograms of marijuana, MCL333.7401(2)(d)(ii). For the reasons set forth below, we reverse and remand.
People v Stevens	07/23/15	MSC Syllabus	Adam B. Stevens was convicted of second-degree murder, MCL 750.317, and second-degree child abuse, MCL 750.136b(3). Although the judge gave a curative instruction to the jury, this instruction was not enough to overcome the bias the judge exhibited against the defense throughout the trial. Consequently, we reverse the judgment of the Court of Appeals and remand for a new trial before a different judge
People v Terrill	10/16/14	MI COA	MMMA basement grow locked, broke lock to get in
People v Toth	0/0/2011	MI CIRCUIT COURT	163 plants fail.Issue: Whether the Defendant can assert the affirmative defense contained in Section 8?Holding: The Court ruled that although an inference could be made that some of marihuana was being manufactured for medical purpose, there was no explicit testimony to this fact. The Defendant admitted to the Michigan State Police that his intent was to make money from his grow operation of 163 plants. He was not entitled to assert the affirmative defense contained in Section 8.
People v Tuttle	0/0/2014	MI COA DECISION	Sect 4 and 8 denied
People v Tuttle - Appellant Brief	07/28/14	MI SC Appellant Brief	
People v Tuttle - Appellee Brief	08/29/14	MI SC Appellee Brief	
People v Tuttle - MSC	01/12/15	MSC - BRIEF AMICUS CURIAE OF THE MICHIGAN MEDICAL MARIJUANA ASSOCIATION	Amicus curiae respectfully requests this Court to overrule the judgment of the Court of Appeals on this matter., and hold - 1) that Defendant Tuttle's case should be remanded to the circuit court with an order to acquit, 2) that marijuana produced in accordance with the MMMA is no longer a controlled substance and is not subject to enforcement under the MCSA, and 3) because marijuana is no longer contraband per se, Brown is no longer good law.
People v Tuttle Amicus CMM	09/19/14	MI SC Amicus CMM	
People v Tuttle MSC	01/15/15	MSC Opinion	Syllabus

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

People v Vansickle	09/12/13	MI COA	Entrapment fake cards
People v Watkins	08/11/11	MI COA	mens rea mmma
People v. Campbell	00/00/1976	MI COA	<p>Issue: Did the Controlled Substances Act intend to include only the sale of synthetic THC in category of narcotics carrying a seven-year penalty, with the sale of natural THC to be punished only under the provisions dealing with marijuana?</p> <p>Holding: YES. Since the substance sold by the defendant contained natural THC, the defendant should have been tried for sale of marijuana, which is a four-year felony.</p>
Rodriguez v United States - Pet Brief	11/17/14	USSC Petitioner Brief	An officer may employ a drug dog during a traffic stop provided the sniff does not delay completion of the tasks related to the traffic infraction. However, the officer may not expand the boundaries of a traffic stop to accomplish the sniff.
Rodriguez v United States - Syllabus	04/21/15	USSC Syllabus	The Court reaffirms that police “may conduct certain unrelated checks during an otherwise lawful traffic stop.” Ibid. Thus, it remains true that police may ask questions aimed at uncovering other criminal conduct and may order occupants out of their car during a valid stop. See <i>Arizona v. Johnson</i> , 555 U. S. 323, 333 (2009); <i>Maryland v. Wilson</i> , 519 U. S. 408, 414–415 (1997); <i>Pennsylvania v. Mimms</i> , 434 U. S. 106, 111 (1977) (per curiam).
Ter Beek v City of Wyoming, Mich	0/0/2014	MSC DECISION	<p>Holding: The Michigan Supreme Court held as follows:</p> <p>The immunity provisions of the MMMA are not preempted by the Federal Controlled Substances Act, and that a municipality cannot enact an ordinance that prohibits growing, possessing or using medical marijuana in compliance with the MMMA.</p>
United States v. Ricky Brown	06/27/16	United States Court of Appeals for the Sixth Circuit	<p>Issue: Does a warrant issued based on an officer's determination that an individual is involved in illegal drug activity alone, give the police officer probable cause to obtain a search warrant for the individual's residence? Furthermore, does a warrant issued without probable cause invoke the good faith-exception, such that the evidence seized is admissible?</p> <p>Holding: NO and NO. The magistrate judge, who was presented with a search warrant application, erred by granting a search warrant. An affidavit supporting the search warrant must demonstrate a nexus between the evidence sought and the place to be searched. The connection between Brown's residence and the evidence of criminal activity cannot be vague or generalized. If the affidavit does not present sufficient facts demonstrating why the police officer expects to find evidence in the residence rather than in some other place, a judge may not find probable cause to issue a search warrant. In <i>Zurcher v. Stanford Daily</i>, 436 U.S. 547, 556 (1978) the Court established that, “the critical element in a reasonable search is not that the owner of property is suspected of crime but that there is reasonable cause to believe that the specific ‘things’ to be searched for and seized are located on the property to which entry is sought.”</p>
US COA v Noble	08/08/14	US COA	Right to frisk driver
US COA v Noble - Analysis	08/08/14	US COA	The holding in <i>United States v Noble</i> is significant in the legal analysis of these situation, because often times the police officers search of the driver or passenger in the vehicle arises from general officer safety patdown of the occupants of the vehicle, and no other reason. The <i>Noble</i> holding sets a precedent that these type of searches are illegal and violate the 4th amendment protections of the driver, absent reasonable suspicion that the person is in fact armed and dangerous.

KOMORN LAW - CASE REFERENCE LINK - UPDATE 8-22-16

USA v Michigan Dept of Community Health	0/0/2011	FEDERAL COURT	<p>Issue: Can the DEA have documents turned over to them that involve marihuana illegal activities?</p> <p>Holding: Yes, the court stated that the DEA is charged with investigating the possession, manufacture and disposition of marihuana and the subpoena issued for the documents pertained to the DEA's investigation. DEA can subpoena documents</p>
USA v Oakland Cannabis Buyers Coop	0/0/2001	USSC DECISION	<p>No, the court held that there were no common law crimes in federal law and the Controlled Substance Act did not recognize a medical necessity exception regardless of their legal status under states' laws. Control substance act not recognize med defense.</p>
Utah v. Strieff	06/20/16	USSC	<p>Issue: Should evidence seized incident to a lawful arrest, being carried out on an outstanding warrant, be suppressed when the warrant was obtained as a result of an illegal investigatory stop?</p> <p>Holding: NO. If there was no blatant police misconduct and a police officer discovered a valid, pre-existing, and untainted warrant for a person's arrest, the evidence seized pursuant to that arrest is admissible even if the police officer's stop of the person was unconstitutional. This is supported by the attenuation doctrine, which is an exception to the doctrine of the fruit-of-the poisonous-tree.</p>
Voisine v Supreme Court of the United States	06/27/16	USSC	<p>Issue: Does a misdemeanor assault crime, which only requires a showing of recklessness, trigger the statutory firearms ban?</p> <p>Holding: YES. Federal law prohibits any individual, who was previously convicted of a misdemeanor crime of domestic violence from possessing a firearm. 18 U. S. C. §922(g)(9). Previously, the Court "left open whether a reckless assault also qualifies as a use of force so that a misdemeanor conviction for such conduct would trigger §922(g)(9)'s firearms ban." Based off of statutory text, the Court concluded, "that a reckless domestic assault qualifies as a misdemeanor crime of domestic violence under §922(g)(9)."</p>