UNITED STATES SUPREME COURT DECISIONS

Gonzalez v. Raich, 545 U.S. 1; 125 S Ct 2195; 162 L Ed 2d 1 (2005)
The Commerce Clause gives Congress the authority to prohibit the local cultivation and use of Marihuana contrary to state law.

United States v. Oakland Cannabis Buyers' Cooperative, 532 U.S. 483; 121 S Ct 1711; 149 L Ed 2d 722 (2001)
There are no common law crimes in federal law and the Controlled Substance Act does not recognize a medical necessity exception regardless of their legal status under states' laws.

FEDERAL COURT DECISIONS

Americans for Safe Access, Et. Al, v Drug Enforcement Administration, 706 F3d 438 (DC Cir, 2013)
The Court upheld the DEA's decision not to reschedule marijuana.

Casias v. Wal-Mart, 695 F3d 428 (CA 6, 2012)
The MMMA provides a potential defense to criminal prosecution or other adverse action by the state, not private employment disputes.

United States of America v. Michigan Department of Community Health, 2011 US Dist LEXIS 59445 (WD Mich, June 3, 2011) [Case No. 1:10-MC-109]
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.

MICHIGAN SUPREME COURT DECISIONS

People v Hartwick, 496 Mich 851 (2014)
People v Tuttle, 496 Mich 851 (2014)

1. entitlement to § 4 immunity is a question of law to be decided by the trial court before trial;
2. the trial court must resolve factual disputes relating to § 4 immunity, and such factual findings are reviewed on appeal for clear error;
3. the trial court's legal determinations under the MMMA are reviewed de novo on appeal;
4. a defendant may claim immunity under § 4 for each charged offense if the defendant shows by a preponderance of the evidence that, at the time of the charged offense, the defendant
   (i) possessed a valid registry identification card,
   (ii) complied with the requisite volume limitations of § 4(a) and § 4(b),
   (iii) stored any marijuana plants in an enclosed, locked facility, and
   (iv) was engaged in the medical use of marijuana;
5. the burden of proving § 4 immunity is separate and distinct for each charged offense;
6. a marijuana transaction by a registered qualifying patient or a registered primary caregiver that is not in conformity with the MMMA does not per se taint all aspects of the registered qualifying patient's or registered primary caregiver's marijuana-related conduct;
7. a defendant is entitled to a presumption under § 4(d) that he or she was engaged in the medical use of marijuana if the defendant has shown by a preponderance of the evidence that, at the time of the charged offense, the defendant
   (i) possessed a valid registry identification card, and
   (ii) complied with the requisite volume limitations of § 4(a) and § 4(b);

(A valid registry identification card is a prerequisite to establish immunity under § 4. But possession of a valid registry identification card, alone, does not establish any presumption for the purpose of § 4. Further, the verification and confidentiality provisions in § 6(c) and § 6(h) do not establish that a defendant has engaged in the medical use of marijuana, or complied with the requisite volume and storage limitations of § 4.)

People v Mazur, 497 Mich ___; 854 NW2d 719 (2015)
Section 4(i) protections for any person depend upon patient's or caregiver's compliance with section 4. Paraphernalia is not contraband per se.

Ter Beek v. City of Wyoming, 495 Mich 1; 846 NW2d 531 (2014)
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

People v. Koon, 494 Mich 1; 832 NW2d 724 (2013)
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. State of Michigan v. McQueen, 493 Mich 135; 828 NW2d 644 (2013): the definition of "medical use" in the MMMA includes the sale of marihuana. The MMMA does not permit a registered qualifying patient to transfer marihuana for another registered qualifying patient's medical use.

State v McQueen, 493 Mich 135; 828 NW2d 644 (2013);
Patient to patient transfers are not authorized under section 4. Patients are allowed to acquire from anyone due to asymmetrical protections.

People v. Bylsma, 493 Mich 17; 825 NW2d 543 (2012)
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. That a defendant need not establish the elements of § 4 immunity in order to establish the elements of the § 8 defense.

People v. Kolanek & King, 491 Mich 382; 817 NW2d 528 (2012)
The plain language of the MMMA does not require that a defendant asserting the affirmative defense under § 8 also meet the requirements of § 4. 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. 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.

People v. Feezel, 486 Mich 184; 783 NW2d 67 (2010)
That 11-Carboxy-THC is not a derivative of marihuana and therefore is not a Schedule 1 Controlled

substance.

MICHIGAN COURT OF APPEALS PUBLISHED CASES

People v Lois Butler-Jackson, 307 Mich App 667; 862 NW2d 423 (2014)
MCL 333.26424(f) does not prohibit physicians from issuing written certifications in the absence of a bona fide physician-patient, without conducting a full assessment of medical history, and when a "professional opinion" cannot be formulated. That is, this statute does not define any prohibited conduct, does not characterize any such conduct as constituting either a misdemeanor or felony, and does not provide for any punishment.

Braska v Department of Licensing and Regulatory Affairs, 307 Mich App 340; 861 NW2d 289 (2014)
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). Because the MMMA preempts the MESA, the circuit courts did not err in reversing the MCAC's rulings that claimants were not entitled to unemployment compensation benefits.

People v Carruthers, 301 Mich App 590; 837 NW2d 16 (2013)
Brownies made from resin are not "usable marihuana." If a defendant possesses marihuana which does not meet the definition of "usable marihuana," he or she does not qualify for immunity under § 4. If a defendant possesses marihuana which does not meet the definition of "usable marihuana," he or she can attempt to use the affirmative defense in § 8.

People v Anderson (After Remand), 298 Mich App 10; 825 NW2d 641 (2012)
The trial court's sole function at the hearing was to assess the evidence and to determine whether as a matter of law, the defendant presented sufficient evidence to establish a prima facie defense under §8, and if he did whether there were any material factual disputes on the elements of the defense that must be resolved by the jury.

People v. Brown, 297 Mich App 670; 825 NW2d 91 (2012)
That to establish probable cause, a search-warrant affidavit need not provide facts from which a magistrate could conclude that a suspect's marihuana-related activities are specifically not legal under the MMMA.

People v. Nicholson, 297 Mich App 191; 822 NW2d 284 (2012)
The defendant was not immune from arrest because his application paperwork for a registry identification card under the MMMA was "not reasonably accessible at the location of his arrest." However, the court further held that because he possessed a registry identification card that had been issued before his arrest when being prosecuted, he was immune from prosecution unless there is evidence showing that his possession of marihuana at the time was not in accordance with "medical use" as defined in the MMMA or otherwise not in accordance with the MMMA.

People v. Brian Bebout Reed, 294 Mich App 78; 819 NW2d 3 (2011)
For the affirmative defense to apply, the physician's statement must occur before the commission of the purported offense. We further hold that defendant has no immunity under MCL 333.26424 because defendant did not possess a registry identification card at the time of the purported offense. For a Section 8 affirmative defense to apply, the physician's statement must occur before the purportedly

illegal conduct.

People v. Redden, 290 Mich App 65; 799 NW2d 184 (2010)
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. 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.

People v. Campbell, 289 Mich App 533; 798 NW2d 514 (2010)
The MMMA should not be retroactively applied.

People v Sinclair, 387 Mich 91; 194 NW2d 878 (1972)
There is no rational basis for treating marijuana like a schedule 1 controlled substance, or alcohol

People v Campbell, 115 Mich App 369; 320 NW2d 381 (1982)
THC is marijuana.