

2012-05

STATE OF MICHIGAN

IN MICHIGAN SUPREME COURT

On Appeal from the Court of Appeals
Gleicher, P.J., Hoekstra, and Stephens, JJ.

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff/Appellee,

V

RYAN MICHAEL BYLSMA

Defendant/Appellant.

Supreme Court Case No. 144120

Court of Appeals Docket No. 302762

Kent CC No. 10-011177-FH

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**BRIEF AMICUS CURIAE OF
MICHIGAN MUNICIPAL LEAGUE AND
STATE BAR PUBLIC CORPORATION LAW SECTION
IN SUPPORT OF PLAINTIFF-APPELLEE PEOPLE OF THE STATE OF MICHIGAN**

Dated: September 26, 2012

***PLEASE NOTE THAT ORAL ARGUMENT ON APPELLANT'S
APPLICATION FOR LEAVE TO APPEAL IS SCHEDULED
FOR OCTOBER 11, 2012***

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II. DEFENDANT HAS FAILED, AND CANNOT SUCCEED IN, SUSTAINING THE BURDEN OF PROOF FOR THE ASSERTION OF AN AFFIRMATIVE DEFENSE OR PRESENTATION OF ANY OTHER BASIS UNDER §8 OF THE MMMA THAT WOULD IMMUNIZE HIM FROM PROSECUTION FOR MANUFACTURING MARIHUANA.	
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**STATEMENT OF THE BASIS OF JURISDICTION OF THE SUPREME COURT AND
GROUNDS FOR APPEAL**

Amici accept the statements presented by Plaintiff-Appellee in its Supplemental Brief.

STATEMENTS OF AMICUS CURIAE

State Bar Public Corporation Law Section

The State Bar Public Corporation Law Section is a standing section of the State Bar of Michigan consisting primarily of attorneys that represent clients that are public corporations, including those who have a direct interest in the significant matters at issue in this case. There are several sections and committees of the State Bar, and statements made in this Brief on behalf of the Public Corporation Law Section are not represented as necessarily reflecting the views of other sections and committees or of the State Bar of Michigan as a whole.

Michigan Municipal League

The Michigan Municipal League is a non-profit Michigan corporation whose purpose is the improvement of municipal government and administration through cooperative efforts, and whose membership is comprised of some 521 Michigan cities and villages. Among its members are more than 450 cities and villages, who are also members of the Michigan Municipal League Legal Defense Fund. The Michigan Municipal League operates the Legal Defense Fund through a Board of Directors. The purpose of the Legal Defense Fund is to represent the member local governments in litigation of statewide significance. The accompanying brief amicus curiae is authorized by the Legal Defense fund's Board of Directors whose membership includes: the president and executive director of the Michigan Municipal League, and the officers and directors of the Michigan Association of Municipal Attorneys: Randall L. Brown, city attorney,

Portage; Lori Grigg Bluhm, city attorney, Troy; Stephen K. Postema, city attorney, Ann Arbor; Eric D. Williams, city attorney, Big Rapids; Clyde J. Robinson, city attorney, Kalamazoo;; James O. Branson, III, city attorney, Midland; James J. Murray, city attorney, City of Boyne City and Petoskey; Robert J. Jamo, City of Menomenee; John C. Shrier, City of Muskegon; Thomas M. Schultz, City Attorney for Farmington and Novi; and William C. Mathewson, General Counsel, Michigan Municipal League.

STATEMENT OF QUESTIONS PRESENTED

I

WHETHER THERE IS AN ABSENCE OF AUTHORIZATION UNDER §4 OF THE MMMA CARVING OUT FROM PUBLIC HEALTH CODE LIABILITY A RIGHT FOR QUALIFYING PATIENTS AND REGISTERED PRIMARY CAREGIVERS TO POSSESS AND CULTIVATE MARIHUANA IN A COLLECTIVE OR COOPERATIVE, AND AN ABSENCE OF BASIS FOR IMPLYING SUCH AN AUTHORIZATON; AND, WHETHER DEFENDANT IS UNABLE TO POINT TO ANY BASIS UNDER THE §4 SCHEME OF THE MMMA THAT WOULD AUTHORIZE THE CULTIVATION OF 88 MARIHUANA PLANTS AND IMMUNIZE HIM FROM PROSECUTION FOR MANUFACTURING MARIHUANA.

Appellee People of the State of Michigan says “Yes.”
Appellants Bylsma says “No.”
The Court of Appeals said “yes”
Amici say “yes”
This Court should say “Yes.”

II

WHETHER THE DEFENDANT IN THIS CASE, A PRIMARY CAREGIVER, IS UNABLE TO ASSERT AN AFFIRMATIVE DEFENSE, OR PRESENT ANY OTHER BASIS FOR IMMUNITY UNDER §8 OF THE MMMA TO SECURE A DISMISSAL OF THE CHARGE OF MANUFACTURING MARIHUANA.

Appellee People of the State of Michigan says “Yes.”
Appellants Bylsma says “No.”
The Court of Appeals could not fully address this issue
Amici say “yes”
This Court should say “Yes.”