

COA Opinion: A successful medical marijuana defense requires more than just proving that the amount at issue did not exceed the amount reasonably necessary to treat a medical condition

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Judges Murray and Hoekstra issued a majority opinion in [People v. Anderson, No. 300641](#), upholding the trial court's refusal to allow a defendant, charged with manufacturing marijuana, from presenting a medical use defense under the state's Medical Marijuana Act. In doing so, the majority adopted the [concurring opinion of Judge Kelly](#), concluding that, in order to satisfy the terms of the medical use defense under the Medical Marijuana Act, the defendant must not only show that amount in question did not exceed the amount reasonably necessary to ensure uninterrupted availability of marijuana for treatment of a serious medical condition, but must also establish that the amount was below the objective, statutorily-specified levels (2.5 ounces or less / 12 or fewer plants) and that the plants were kept in a enclosed, locked facility as required by the statute. Here, the defendant had more than 12 plants and did not keep them in a properly enclosed facility. In light of these undisputed facts, the defense under the Medical Marijuana Act could not be sustained. The majority also concluded that the trial court properly rejected this defense because the defendant could not offer any relevant testimony in support of the medical necessity of the amount because neither the proffered witnesses (defendant and his family physician) could offer proper testimony on that subject.