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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	FOR PUBLICATION August 14, 2026 10:11 AM
v	No. 374370 Gratiot Circuit Court
AARON MICHAEL PAINTER, Defendant-Appellant.	LC No. 24-008996-FH

Before: GADOLA, C.J., and RIORDAN and SWARTZLE, JJ.

PER CURIAM.

In this interlocutory appeal, defendant appeals as on leave granted[1] the trial court's order denying his motion to dismiss the charges of involuntary manslaughter, MCL 750.321; delivering or manufacturing a controlled substance (marijuana), MCL 333.7401(2)(d)(*iii*); and third-degree child abuse, MCL 750.136b(5). On appeal, defendant argues that the trial court erred by (1) ruling that his activity of butane extraction is not considered "processing" under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.26421 *et seq*., specifically MCL 333.27953(x); and (2) denying his motion to dismiss the charges against him under the immunity provision of the MRTMA, MCL 333.27955(1). We affirm the trial court's refusal to dismiss the involuntary manslaughter and child-abuse charges. However, we reverse the trial court's ruling that butane extraction is not considered "processing" under MCL 333.27953(x) and its decision to sustain the marijuana charge, and remand to that court for further proceedings.

I. FACTS

Our recitation of the facts of this case is limited to those set forth in the parties' preliminary filings. According to defendant, on March 6, 2024, he and his fiancé, Ali Smith, were at their

[1] We originally denied defendant's application for leave to appeal. *People v Painter*, unpublished order of the Court of Appeals, entered May 12, 2025 (Docket No. 374370). Our Supreme Court, however, remanded this matter to this Court for consideration as on leave granted. *People v Painter*, ___ Mich ___; 28 NW3d 338 (2025) (Docket No. 168734).

home with their seven-year-old daughter. Defendant and Smith woke up early to make marijuana concentrate, which is known as marijuana "dabs" or "wax." The process that they used involved placing marijuana in a pressure vessel and filling the vessel with butane to remove the oil from the plant material. This results in a "mixture" that apparently is favorable for consumption once the butane is purged. After defendant began the process in the bathroom, there was an explosion and fire. Smith died, and defendant and their daughter were severely burned. Defendant claims that there was evidence that the butane vapors had filled an area of the home and were ignited in a flash fire.

Although the medical examiner determined that Smith's death was accidental, the prosecutor charged defendant with involuntary manslaughter, delivering or manufacturing a controlled substance (marijuana), and third-degree child abuse, arising from his conduct on the day at issue. The district court bound defendant over to the circuit court on those charges after he waived preliminary examination.

In the trial court, defendant moved to dismiss the charges against him on the basis that he was immune from prosecution. Defendant argued that he was "processing" marijuana in his residence during the incident, which was expressly authorized under MCL 333.27955(1)(b) of the MRTMA. As a result, defendant reasoned, he was immune from prosecution under MCL 333.27954(5) of the MRTMA for any results caused by that processing.

In response, the prosecutor agreed that the MRTMA allows the storing and processing of marijuana in a person's residence for personal use under MCL 333.27955(1)(b). However, the prosecutor asserted, that provision appears to be in conflict with MCL 333.27954(1)(d), which provides that the MRTMA does not authorize the use of butane extraction "within the curtilage of any residential structure." The prosecutor maintained that the more general provision of MCL 333.27955(1)(b) must give way to the more specific provision of MCL 333.27954(d), so butane extraction is not afforded immunity.

After considering the parties' respective oral arguments, the trial court considered that the parties stipulated that defendant was using the butane-extraction process and that he was doing so inside his home. Then, relying on *People v Korkigian*, 334 Mich App 481; 965 NW2d 222 (2020), the trial court ruled that the kind of "processing" for which there is immunity under the MRTMA does not include the complex manufacturing process that is butane extraction. Thus, the trial court denied the motion to dismiss.

The trial court then entered its written order a few months later memorializing its ruling that butane extraction is not "processing" for the purposes of MRTMA immunity. This appeal followed.

II. STANDARD OF REVIEW

"This Court reviews a trial court's ruling regarding a motion to dismiss for an abuse of discretion." *People v Jones*, 252 Mich App 1, 4; 650 NW2d 717 (2002) (quotation marks and citation omitted). "A trial court abuses its discretion when it selects an outcome that does not fall within the range of reasonable and principled outcomes." *People v Dixon-Bey*, 321 Mich App 490, 496; 909 NW2d 458 (2017) (quotation marks and citation omitted). "We review de novo

issues of statutory interpretation." *People v Ambrose*, 317 Mich App 556, 560; 895 NW2d 198 (2016).

III. DISCUSSION

Defendant argues that butane extraction is "processing" as defined by MCL 333.27953(x) of the MRTMA and, because MCL 333.27955(1)(b) of the MRTMA provides that "processing" marijuana is immune from criminal prosecution, it follows that the three charges against him must be dismissed. We agree with defendant that butane extraction is "processing" and that the marijuana charge against him must be dismissed on this basis. However, we disagree that MRTMA immunity extends to the charges of involuntary manslaughter and third-degree child abuse.

"The MRTMA was enacted in late 2018, as the result of an initiative and referendum passed by the voters of the state of Michigan." *People v Kejbou*, 348 Mich App 467, 474; 19 NW3d 393 (2023). We interpret law passed by initiative by determining the intent of the electorate, rather than the intent of the Legislature. *People v Hartwick*, 498 Mich 192, 210; 870 NW2d 37 (2015). "Our interpretation is ultimately drawn from the plain language of the statute, which provides the most reliable evidence of the electors' intent." *Id*. (quotation marks and citation omitted).

The people enacted the MRTMA, in relevant part, to legalize marijuana and to "prevent arrest and penalty for personal possession and cultivation" of marijuana. MCL 333.27952. To that end, "[a]ll other laws inconsistent with this act do not apply to conduct that is permitted by this act." MCL 333.27954(5). Similarly, MCL 333.27955(1) the MRTMA expressly establishes immunity for certain conduct authorized by the act:

> Notwithstanding any other law or provision of this act, and except as otherwise provided in [MCL 333.27954], the following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection, and are not grounds to deny any other right or privilege:
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> * * *
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> (b) within the person's residence, possessing, storing, and *processing* not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once . . . . [Emphasis added.]

MCL 333.27953(x) defines the term "processing" as follows: " 'Process' or 'processing' means to separate or otherwise prepare parts of a marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products." Further, relevant for this case, MCL 333.27954(1)(d) provides that the MRTMA does not authorize "separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure[.]"

We agree with defendant that his activity of butane extraction is "processing" under MCL 333.27953(x). That statute broadly refers not only to the specific activities of compounding, blending, extracting, and infusing, but also to "otherwise mak[ing] or prepar[ing] marihuana concentrate." MCL 333.27933(x). Arguably, the butane extraction here simply falls within the scope of the term "extracting." However, even if it does not, MCL 333.27933(x) includes the expansionary language "otherwise mak[ing] or prepar[ing] marihuana concentrate." From the minimal facts before us, it appears that defendant was making or preparing some type of marijuana concentrate through the use of butane.

Our reasoning in this regard is consistent with *Korkigian*. In that case, when discussing butane extraction in the context of a different statute, we characterized that activity as "processing," stating as follows:

> The "open blasting" process of transforming raw marijuana into usable resin involves more than just "preparing" the marijuana for personal use. Goodnough described the technique as incorporating the use of a volatile chemical (butane), combined with filtration, followed by evaporation of the solvent, dissolving of the product in a polar solvent, additional filtration, and heating the resulting material under a vacuum. This process is more appropriately characterized as "production" or "*processing*." [*Korkigian*, 334 Mich App at 499-500 (emphasis added).]

Moreover, MCL 333.27954(1)(d) itself suggests that butane extraction is immune activity when it occurs in a protected place. That statute provides that the MRTMA "does not authorize . . . butane extraction . . . in any public place, motor vehicle, or within the curtilage of any residential structure." The logical implication of this language is that butane extraction is not necessarily prohibited in a place that is not a public place, motor vehicle, or the curtilage of a residence. See *Houghton Lake Area Tourism & Convention Bureau v Wood*, 255 Mich App 127, 151; 662 NW2d 758 (2003) ("Under the doctrine of *expressio unius est exclusio alterius*, an express mention of one thing generally implies the exclusion of similar things that were not mentioned."). Thus, engaging in butane extraction in the interior of one's own residence, as occurred here, is contemplated by MCL 333.27954(1)(d) as protected activity.[2]

[2] The prosecutor argues that the term "curtilage" includes the interior of a residence. We disagree. While the definition of the term "curtilage" is imprecise, it generally is understood to mean "[t]he land or yard adjoining a house, usu. within an enclosure." *Black's Law Dictionary* (10th deluxe ed.), p 466.

Relatedly, the prosecutor argues that interpreting MCL 333.27954(1)(d) as not including the interior of a residence constitutes an absurd result. Again, we disagree. "Under the absurd-results rule, a statute should be construed to avoid absurd results that are manifestly inconsistent with legislative intent." *Barrow v City of Detroit Election Comm'n*, 301 Mich App 404, 416; 836 NW2d 498 (2013) (cleaned up). Assuming that the absurd-results doctrine applies to an initiative or referendum, it is not absurd to limit potentially hazardous butane extraction to non-public places in order to minimize the risk of harm to the general public.

For these reasons, we agree with defendant that MCL 333.27955(1)(b) the MRTMA protects the butane extraction in which he was engaged. As a result, because the marijuana charge apparently was based upon this activity, the charge must be dismissed because it is protected by MRTMA immunity. See MCL 333.27955(1).[3]

However, we disagree with defendant that the involuntary manslaughter and child abuse charges implicate MRTMA immunity under MCL 333.27955(1). While that statute broadly establishes immunity from "arrest, prosecution, or penalty in any manner" with respect to "processing," MCL 333.27955(1)(b), and such "processing," as explained, includes butane extraction, MCL 333.27953(x), MRTMA immunity under MCL 333.27955(1) is established "except as otherwise provided in [MCL 333.27954] of this act." In other words, MRTMA immunity under MCL 333.27955(1) is subject to, and limited by, MCL 333.27954. Further, MCL 333.27954(5) provides that "[a]ll other laws inconsistent with this act do not apply to conduct that is permitted by this act."

Accordingly, when MCL 333.27955(1) and MCL 333.27954(5) are read together, the question before us is whether the laws concerning involuntary manslaughter and third-degree child abuse are "inconsistent with" the MRTMA. Compare *People v Hess*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 167895); slip op at 14 ("The MRTMA provides that all state laws 'inconsistent with this act do not apply to conduct that is permitted by this act.' MCL 333.27954(5). Thus, having concluded that the [Controlled Substances Act] does not preempt § 5(1) of the MRTMA, we must next consider whether the probation act is 'inconsistent with' the MRTMA.").

We conclude that these laws are not "inconsistent with" the MRTMA because it is possible to apply them to otherwise-immune conduct under the MRTMA that is performed negligently. That is, the MRTMA provides immunity for, among other activities, butane extraction, but it does not provide immunity when that butane extraction is performed in a criminally negligent manner. "Involuntary manslaughter is the unintentional killing of another, without malice, during the commission of an unlawful act not amounting to a felony and not naturally tending to cause great bodily harm; or during the commission of some lawful act, negligently performed; or in the negligent omission to perform a legal duty." *People v Mendoza*, 468 Mich 527, 536; 664 NW2d 685 (2003). Thus, involuntary manslaughter does not require evidence that the defendant committed an unlawful act. See *People v Holtschlag*, 471 Mich 1, 16-18; 684 NW2d 730 (2004). As a result, the prosecutor in this case may pursue that charge on a theory of negligence. Simply put, as this Court explained in *Korkigian*, butane extraction is dangerous because, among possible other reasons, butane evaporates during the process and can fill an enclosed space if performed in a place without adequate ventilation. See *Korkigian*, 334 Mich App at 486. Processing marijuana

[3] We note that MCL 333.27955(1)(b) only protects "processing" when it is limited to no more than 10 ounces of marijuana and "personal use." Given the facts before us, there is nothing to suggest that defendant exceeded the 10-ounce limit or did not intend to use the marijuana concentrate for personal use. Should the facts develop otherwise, MRTMA immunity may no longer apply.

in an unventilated bathroom using the butane-extraction process arguably is evidence of criminal negligence that could support an involuntary-manslaughter charge.[4]

The same negligence also may support a charge of third-degree child abuse. See MCL 750.136b(5)(b) (stating, in relevant part, that a person is guilty of third-degree child abuse when "[t]he person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, and the act results in physical harm to a child"). MCL 750.136b(5)(b) does not require that the "act" that poses an unreasonable risk be an unlawful or illegal act itself. Rather, we have indicated that third-degree child abuse in this context essentially requires a "reckless" act. See *People v Lawhorn*, 320 Mich App 194, 201; 907 NW2d 832 (2017). As explained, the butane-extraction process in which defendant engaged may be characterized as such an act. Consequently, the prosecutor may proceed against defendant with the charge of third-degree child abuse.

IV. CONCLUSION

The immunity provided under MCL 333.27955(1) of the MRTMA precludes prosecution premised solely on the act of processing marijuana in accordance with the terms of the MRTMA. However, the act does not preclude prosecution for causing an explosion and fire through criminal negligence notwithstanding that the negligent acts were performed in furtherance of the processing of marijuana.

Therefore, we affirm the trial court's denial of defendant's motion to dismiss the charges of involuntary manslaughter and third-degree child abuse, reverse the trial court's denial of his motion to dismiss the marijuana charge itself, and remand to that court for further proceedings consistent with our opinion. We do not retain jurisdiction.

/s/ Michael F. Gadola
/s/ Michael J. Riordan
/s/ Brock A. Swartzle

[4] We note the possibility that butane extraction may be unlawfully negligent for the purposes of charges such as involuntary manslaughter whenever butane extraction is performed without certain industrial equipment and expertise, given its complicated process and potentially deadly results. Indeed, this is not the first case before us in which amateur butane extraction has resulted in an explosion with potentially deadly results. See, e.g., *Korkigian*, 334 Mich App at 486-487; *Adams v Skardoutos*, unpublished per curiam opinion of the Court of Appeals, issued February 13, 2025 (Docket No. 369392). However, we need not reach that question in light of the procedural posture of the case before us.