

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES MARTIN PRAHIN,

Defendant-Appellant.

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UNPUBLISHED

March 19, 1999

No. 209818

Saginaw Circuit Court

LC No. 96-013264 FH

Before: O’Connell, P.J., and Jansen and Collins, JJ.

PER CURIAM.

Defendant is charged with manufacture of marijuana and possession of marijuana with intent to deliver, MCL 333.7401(2)(d)(iii); MSA 14.15(7401)(2)(d)(iii). He appeals, by delayed leave granted, the trial court’s interlocutory order denying his motion to suppress evidence. We affirm.

At issue in this appeal is the admissibility of evidence seized from defendant’s home and outbuildings in rural Saginaw County, pursuant to a search warrant that was obtained after law enforcement officers entered upon defendant’s property and observed some marijuana through a broken window in a storage shed on the premises. Defendant moved to suppress the evidence based on the theory that the officers had no right to walk around his property and to explore the outbuildings without a search warrant. The trial court ruled that defendant has no reasonable expectation of privacy in the area of the storage shed on his property because that area is beyond the curtilage of defendant’s home, and is therefore subject to the “open fields” doctrine recognized in *Oliver v United States*, 466 US 170; 104 S Ct 1735; 80 L Ed 2d 214 (1984). We agree.

The curtilage of a house is determined by factors that bear upon whether an individual reasonably may expect that the area in question should be treated as the home itself: (1) the proximity of the area to the home; (2) whether the area is included within an enclosure surrounding the home; (3) the nature of the uses to which the area is put; and (4) the steps taken by the resident to protect the area from observation by passersby. The central component of the inquiry is whether the area harbors the intimate activities associated with the sanctity of one’s home and the privacies of life. *United States v Dunn*, 480 US 290, 300-301; 107 S Ct 1134; 94 L Ed 326 (1987).

Here, none of the *Dunn* factors clearly favor a finding that defendant's storage shed is located within the curtilage of his home. With regard to the first *Dunn* factor, the fact that the storage shed is located approximately 200 feet from defendant's home does not strongly support defendant's curtilage claim. Outbuildings located less than 200 feet from a residence have been found to be beyond the curtilage of the residence. See, e.g., *Dunn, supra* (180 feet); *United States v Mooring*, 137 F3d 595 (CA 8, 1998) (120 to 150 feet); *United States v Brady*, 993 F2d 177 (CA 9, 1993) (45 feet). While there is at least one case finding a curtilage extending to buildings more than 200 feet from the residence, e.g., *United States v Reilly*, 76 F3d 1271 (CA 2, 1996) (375 feet), the curtilage in that case consisted of a continuous park-like lawn area connecting the residence and outbuildings. Here, the outbuilding in question is located in an unimproved area of high weeds and grasses well outside of the ¼ acre mowed lawn area immediately surrounding defendant's home.

With regard to the second *Dunn* factor, there is nothing to indicate that the storage shed is within any enclosure surrounding the residence. To the contrary, the shed is located well outside of the ¼ acre mowed yard area which encloses defendant's home. Cf. *United States v Jenkins*, 124 F3d 768, 773 (CA 6, 1997) (boundary of curtilage demarked by area of neatly mowed lawn and garden arrangements). As for the third *Dunn* factor, defendant cites no authority to support a finding that his use of the shed for storage of miscellaneous items may be considered an intimate activity associated with the sanctity of his home and the privacies of life. To the contrary, merely using the shed to warehouse junk-like items would not constitute such an activity. *Mooring, supra* at 596-597. Finally, under the fourth *Dunn* factor, the trial court correctly noted that there is no evidence that defendant took any steps to protect this outbuilding from observation by passersby, e.g., by erecting signs or fences restricting access to the area. To the contrary, the evidence indicates that the shed is readily observable from the street and from adjacent land, albeit at some distance. Moreover, the window in the shed had been left broken and uncovered so as to give passersby outside the shed an unobstructed view of its contents.

Affirmed.

/s/ Peter D. O'Connell

/s/ Kathleen Jansen

/s/ Jeffrey G. Collins