

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

FOR PUBLICATION
November 6, 2014

V

No. 315591
Macomb Circuit Court
LC No. 2011-003482-FH

LOIS BUTLER-JACKSON,

Defendant-Appellant.

Advance Sheets Version

Before: RIORDAN, P.J., and CAVANAGH and TALBOT, JJ.

RIORDAN, P.J. (*concurring*).

I concur with the lead opinion’s analysis and conclusions but add that defendant and Brian Deloose did not conspire to commit a “legal act in an illegal manner” under MCL 750.157a. In fact, they may have done the opposite and conspired to commit illegal acts, in part through the use of MCL 333.26424(f).

Defendant was convicted of violating MCL 750.492a(1)a, the falsification of medical records, an illegal act. Deloose also was convicted of falsifying medical records and of three counts of delivery or manufacture of marijuana in violation of MCL 333.7401(2)(d)(iii), also illegal acts. Considering those underlying convictions, defendant and Deloose may have conspired to commit those illegal acts and could have been more appropriately charged for conspiracy under the “commit an offense prohibited by law” prong of MCL 750.157a.

In any event, since a failure to abide by the dictates of MCL 333.26424(f) is not an illegal act, it is not possible to use that statute as a basis for a charge of conspiring to commit a legal act in an illegal manner under MCL 750.157a.

/s/ Michael J. Riordan