

## COA Opinion: Under innocent owner defense, affidavits asserting that claimants had no knowledge of any criminal activity associated with their property was sufficient to show material questions of fact

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The prosecutor filed a complaint for forfeiture of claimants' real property, against claimants and their son pursuant to MCL 333.7521, alleging that claimants' residence was used for controlled substances. A search warrant had led to the discovery of marijuana growing inside the residence, and the claimants' son purportedly admitted that he was responsible for the marijuana. The prosecutor alleged that the son told authorities that "his father had talked to him about getting a job and not growing marijuana." The claimants asserted innocent ownership as an affirmative defense to the forfeiture action, governed by MCL 333.7521(1)(f). Under the innocent owner defense, claimants submitted affidavits stating that they "had no knowledge of any criminal activity associated with any said property". The trial court granted summary disposition in favor of the prosecutor. In a 2-1 opinion, *In re Forfeiture of a Quantity of Marijuana, No. 291993*, the Court of Appeals reversed, concluding that the police report which was reporting a statement of claimants' son about a statement of his father was inadmissible triple hearsay, and that the affidavits, pleadings, and documentary evidence showed at a minimum that material questions of fact existed regarding the innocent owner affirmative defense. Judge O'Connell issued a [dissenting opinion](#).