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APR 16 2004

FRESNO COUNTY SUPERIOR COURT

FILED

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FRESNO COUNTY SUPERIOR COURT
By [Signature] DEPUTY

8 IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO
9 FRESNO CENTRAL DIVISION

10 THE PEOPLE OF THE STATE OF
11 CALIFORNIA, Plaintiff,

12 vs.

13 GARY AINSWORTH,
14 PAULA AINSWORTH,

15 Defendants.

Case No. F 03 906522-8
[D.A. # 2003N32431]

[PROPOSED] ORDER TO RETURN
NON-CONTRABAND PROPERTY

Date: NONE
Time: NONE
Dept: 95

16 ORDER TO RETURN NON-CONTRABAND PROPERTY.

17 The Court has found that the former Defendants herein; GARY AINSWORTH and PAULA
18 AINSWORTH are qualified patients within the meaning of Health and Safety Code section
19 11362.5, and has dismissed with prejudice, all criminal counts, the instant complaint and
20 proceedings. However the Court still has original jurisdiction over their seized property.

21 That the Court further finds that as qualified patients they are entitled to legally possess and
22 cultivate marijuana for their medical purposes. That pursuant to enforcement of the statutory
23 provisions of 11362.5, and enacted but unimplemented 11362.7, et. seq., the Mower decision,
24 and other decisions, it is clear that medicinal marijuana is legal for the qualified patient to possess,
25 use, and cultivate. As Mower compared medicinal marijuana to a prescription for any controlled
26 drug, acquired or held under a physician's prescription.

27
28 Furthermore the law is clear that law enforcement is the custodian of evidence for the court

1 and that statutes authorize, and that cases hold, the court can dispose of evidence, whereas, law
2 enforcement has no independent discretion over the property no longer needed for evidence. The
3 Court considers state law in making these determinations, although there is federal law on point
4 concerning the return of medicinal marijuana.

5 **GOOD CAUSE APPEARING IT IS ORDERED:**

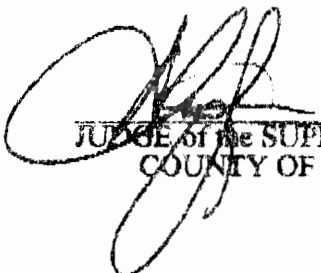
6 That the bail of GARY AINSWORTH and PAULA AINSWORTH is exonerated.

7 That all property seized from these Defendants, by law enforcement, is no longer evidence
8 and that it is hereby ordered returned by the custodians forthwith, to said defendants.

9 Said property is specifically listed in attached Exhibit 1, which is the property and evidence
10 report, and made a part hereof. This property return order shall be executed forthwith by the
11 Clovis Police Department and/or the Fresno County Sheriff's Department, whichever agency
12 controls this non-contraband property.

13 All of said property listed on Exhibit 1, shall be turned over to GARY AINSWORTH and/or
14 PAULA AINSWORTH and/or their attorney WILLIAM R. McPIKE, as an officer of the court.

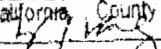
15 Dated: April 6, 2004

16
17 
18 JUDGE of the SUPERIOR COURT,
19 COUNTY OF FRESNO
20



The foregoing instrument is a correct copy of the original on file in this office.

ATTEST: APR 20 2004

TAMARA L. BEARD, Superior Court Clerk
State of California, County of Fresno
By  DEPUTY