

FILED

SUPERIOR COURT OF CALIFORNIA
County of Kern, North Division
Delano-McFarland Branch

Date 5.29.07
By M. J. [Signature]
CLERK

ENDORSE

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9 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF KERN - DELANO BRANCH

11 PEOPLE OF THE STATE OF
12 CALIFORNIA

13 Plaintiff,

14 vs.

15 ANN ARDEL, JEFF JONES

16 Defendants

CASE No. DF 007839 A and B

ORDER AFTER HEARING ON MOTION
TO USE AND CULTIVATE MEDICAL
MARIJUANA PER H&S 11362.795

17 ORDER AFTER HEARING ON DECEMBER 12, 2006

18 FINDINGS OF FACT AND CONCLUSIONS OF LAW -

19 Defendants herein, applied to this Court under Health and Safety Code section
20 11362.795 (a) (1), for an order confirming their medical status as qualified patients under H&S
21 11362.5, and 11362.7, et seq. The relief requested was that the court confirm this status, and
22 that the defendants be recognized under 11362.795, as a matter of law, as being legal under state
23 laws, to use and cultivate marijuana for their personal medical use. 11362.795 (a) (2) requires
24 that the Court make specific findings. This Court understands that those findings are sufficient
25 if medical status is determined. This finding is not from second-guessing the physician's medical
26 diagnosis, but is merely a finding that a physician has sanctioned the medical use of marijuana.

27 Defendants are both seized of the Medical Marijuana Program state ID cards issued
28 upon their voluntary applications to the Kern County Health Department. These state issued

cards are conclusive evidence that they comply with possessing the necessary "written documentation" or physician statements, under the definitions found at 11362.715 and 11362.7. The offered physician's written documentation, as the Court noted, pre-dates the arrest and prosecution in this action.

The Court in open court, conducted a lengthy and involved inquiry into the Legislative intent, purpose, and language of 11362.795, which expressly states the word "use" and does not state the word cultivate. However, after hearing from all sides on the issue, it is clear that the Legislature intended, that for a qualified person to "use" this state medicine, one must have a source to obtain the medicine. 11362.77 provides for that legal source with cultivation. Thus, in reading the 21 statutes (11362.7, et seq.) as one enactment, and upon the People's agreement, the Court determines and finds, that the Legislature intends that cultivation is an approved source, and therefore exists by implication, and was contemplated by 11362.795. That this is not illegal for the qualified patient or caregiver, as a source of providing and obtaining access to this herbal medicine. To deny this construction, would deny a purpose of the rights ensured under 11362.5 and 11362.7 et seq.

Defendants had offered for these motion purposes, to be bound by the quantity limits set forth at 11362.77. This limitation is what this Court presently requires of both defendants.

Therefore, the Court finds as a matter of law, that both defendants ^{come within the legal definition of} are qualified patients within the meaning of the medical marijuana statutes. That this finding fulfills the Legislative findings at 11362.795 (a) (2) and is the basis for granting the Defendants requested relief (i.e., that the use and cultivation of marijuana under state laws, so long as bail exists, or until such time as the cards (or renewals) expire, or until the bail is exonerated, or this case is concluded, which ever occurs first) under the conditions and limitations of the quantity limits at 11362.77, will not violate the terms of bail to obey all laws, nor subject the Defendants to re-arrest for marijuana charges within 11362.77 limitations.

ORDER

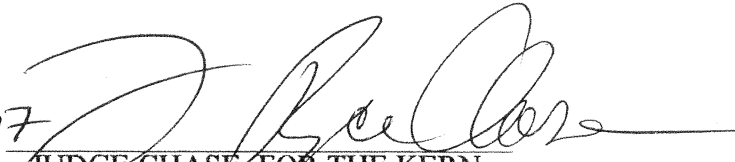
Therefore, GOOD CAUSE APPEARING, IT IS ORDERED:

That the Defendants, and both of them, are qualified patients who will not violate the

terms of their bail should they use, possess and cultivate marijuana for their personal medical purposes, under the limitations set forth at H&S 11362.77 (for 11372.795 purposes) and they shall not be subject to re-arrest for a bail violation under the conditions set forth herein.

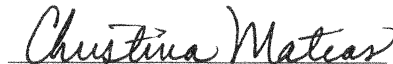
Dated: ~~January~~ , 2007

May 29, 2007


JUDGE CHASE, FOR THE KERN
COUNTY, SUPERIOR COURT

Approved as to form and content:

Public Defender



District Attorney

