Legal Alert

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QUESTION: COULD GRANNY IN CALIFORNIA GO TO PRISON FOR HER MEDICAL MARIJUANA?

ANSWER: YES, THE FEDERAL CONTROLLED SUBSTANCES ACT STILL CRIMINALIZES THE MANUFACTURE, DISTRIBUTION, POSSESSION, OR USE OF EVEN MEDICAL MARIJUANA.

So is Medical Marijuana just a Pipe Dream?

Several states have legalized medical marijuana and a few states have de-criminalized marijuana. The federal Controlled Substances Act preempts or overrides such state laws, however. *Gonzales v. Raich*, 545 U.S. 1 (2005).

What Reefer Madness got Granny Busted?

Actually, Angel Raich and Diane Monson had serious medical conditions and were "being treated by licensed, board-certified family practitioners, who have concluded, after prescribing a host of conventional medicines . . . that marijuana is the only drug available that provides effective treatment." The two women and their doctors complied with California's Compassionate Use Act.

> Both women have been using marijuana as a medication for several years pursuant to their doctors' recommendation, and both rely heavily on cannabis to function on a daily basis. Indeed, Raich's physician believes that foregoing cannabis treatments would certainly cause Raich excruciating pain and could very well prove fatal.

Diane Monson grew her own pot. Angel Raich was "unable to cultivate her own," and had two caregivers grow her weed locally and give it to her at no charge.

Granny was Cool Until the Narcs from the Drug Enforcement Administration Rolled Up!

Sheriffs' deputies and agents from the Drug Enforcement Administration came to Diane Monson's home.

"After a thorough investigation, the county officials concluded that her use of marijuana was entirely lawful as a matter of California law." That did not matter to

the feds, however. "[A]fter a 3-hour standoff, the federal agents seized and destroyed all six of her cannabis plants." (Really, a 3-hour standoff by armed officers about a sick woman's six pot plants?)

Get out the Visine and Let's be Clear About Crime!

Marijuana is classified as a Schedule I substance under the Controlled Substances Act. "This classification renders the manufacture, distribution, or possession of marijuana a criminal offense."

According to the Supreme Court: "The question before us, however, is not whether it is wise to enforce the statute in these circumstances; rather, it is whether Congress' power to regulate interstate markets for medicinal substances encompasses the portions of those markets that are supplied with drugs produced and consumed locally."

Why did the Feds and the Supreme Court Treat the Sick People as if they were Drug Dealers?

The Supreme Court knew Ms. Raich and Ms. Monson were not Cheech and Chong:

> The case is made difficult by respondents' strong arguments that they will suffer irreparable harm because, despite a congressional finding to the contrary, marijuana does have valid therapeutic purposes.

The women said that growing and using marijuana at home had no impact on interstate commerce. Therefore, Congress could not keep them from their pot under its Commerce Clause powers. The Court disagreed because it is hard to tell locally grown pot from weed grown elsewhere. Also, there were "concerns about diversion into illicit channels . . ." So Congress "had a rationale basis" to fear the impact of these two dopers on "the larger interstate marijuana market."

The Supreme Court thought that even if Congress had been hallucinating about the impact of home grown and home consumed pot on interstate commerce, the Supremacy Clause and the Commerce Clause outweighed the California Compassionate Care Act in this "troubling case."

Pass the Brownies?

If the taxpayer costs for taking away the sick women's pot causes you chronic pain, nausea or lack of appetite, don't reach for your medical marijuana!