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## **Iowa Court orders Pharmacy Board to consider medical marijuana**

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The American Civil Liberties Union of Iowa, announces today that it has secured a court victory in its quest to have marijuana considered for medical use in the State of Iowa. Polk County District Judge Joel D. Novak ruled that Pharmacy Board had to consider whether marijuana is improperly classified as a schedule I controlled substance under Iowa law and directed the Board to consider only one criteria when it makes its decision.

Currently, marijuana can be used legally under medical supervision in at least 13 states for relief of severe nausea, pain spasms, and other debilitating symptoms brought on by such diseases as cancer, multiple sclerosis, and AIDS. Proponents of medical marijuana contend that the substance is often much more effective, and has fewer side effects than outrageously priced prescription drugs that attempt to mimic marijuana's known therapeutic effects.

In Iowa, however, marijuana has been kept on the list of substances that have "no accepted medical use in treatment in the United States." As such, it is subject to even more control than supposedly "harder" drugs like cocaine, methamphetamine, and opiates. In the ruling announced today, a Polk County Judge rejected the Iowa Pharmacy Board's position that it could not approve use of marijuana under medical supervision until the ACLU's clients proved that marijuana "lacks a high potential for abuse."

Under Iowa's controlled substances law, drugs and other substances are listed on schedules according to their utility in medicine and dangerousness to the public. The Iowa Board of Pharmacy is charged with the responsibility of periodically reviewing the scheduling of substances and with making recommendations for rescheduling to the legislature when a substance no longer meets criteria for listing on its current schedule.

The Petitioners in this action, Carl Olsen, George McMahon, Barbara Douglass, and Bryan Scott, petitioned the Pharmacy Board for a recommendation that marijuana be removed from Schedule I because it no longer met the required criteria of having no accepted use in medical treatment in the United States. The fact that marijuana is now legally used for medical purposes in 13 states could not be ignored by the Pharmacy Board, they argued.

At its July 29th, 2008 meeting, the Pharmacy Board balked at the suggestion that it should review the status of medical marijuana as required by statute based on its desire to see the federal government take some action first. The Petitioners, some of whom have been waiting for decades to obtain a similar decision at the federal level, pressed their case and the Pharmacy board issued a ruling on October 7th,

2008 requiring the petitioners to prove as an additional criteria that marijuana "lacks a high potential for abuse." It was this ruling that was appealed to the Polk County District Court.

Petitioner Carl Olsen is a well known marijuana activist. Petitioners McMahon and Douglass are two of the last three or four persons in the country who are enrolled in the federal "Investigational New Drug (IND) Compassionate Access Program" under which they receive marijuana grown by the federal government to use to alleviate their medical conditions under the supervision of a physician. In 1992 the George H.W. Bush administration closed the program to new patients when it became clear that a large number of AIDS victims were turning to marijuana for relief of their symptoms. Outside of the federal program, marijuana has not been legally used in Iowa for medical purposes since prior to the 1930's when it was recommended by physicians for an number of ailments.

The judge in this case was the Hon. Joel D. Novak. The attorneys were Scott Galenbeck from the Iowa Attorney General's office, representing the Board of Pharmacy, and Randall C. Wilson, Legal Director of the ACLU of Iowa Foundation, representing Petitioners, McMahon, Scott and Douglass. Carl Olsen appeared *pro se*.

A copy of the Court's ruling is attached to electronic versions of this release.

For More Information:

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