

Bad Axe pot trial suspect sentenced to jail time

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BAD AXE — An attempt by defense attorney Michael A. Komorn of Southfield to have his clients' no contest plea withdrawn went up in smoke earlier this week as a judge moved forward with sentencing in the Bad Axe pot case.

Jeffrey D. Ellis, 46, of Livonia, was sentenced in Huron County Circuit Court on a charge of manufacturing and distributing a controlled substance outside of a license, a charge that stems from a 2009 bust by the Bad Axe Police Department.

The charge is considered a high court misdemeanor, carrying a maximum penalty of two years in prison and/or a \$25,000 fine.

Ellis, who does not have a prior criminal record, was sentenced to serve 60 days in jail, and 36 months probation.

He was also ordered to pay \$2,000 in fines and costs, \$130 to the Crime Victim's Rights Fund, \$68 in state costs, \$10 per month in probation oversight fees. Other terms of his sentence includes suspension of his drivers license for a year, he must undergo drug testing, he is prohibited from using drugs, changing his address and associating with anyone with a criminal record or being a caregiver or user under the Michigan Medical Marijuana Act.

The term of Ellis' sentence however are stayed until Dec. 3, as Ellis and his attorney appeal the case to the Michigan Court of Appeal.

Knoblock said if Ellis fails to pursue the appeal or does not file in a timely fashion the stay will be lifted and Ellis will begin serving the terms of his sentence.

Prior to sentencing Monday, Komorn in a motion before Knoblock requested the no contest plea be withdrawn and the case to be heard by a jury.

Komorn said one of the issues are the terms of the plea agreement were that his client be given the right to appeal the case to the Michigan Court of Appeals and he felt the plea bargain didn't reflect that right.

"We were prepared to go to trial and our intent was to go to trial (on Nov. 1, 2011)" said Komorn on Monday in court.

But when prosecutor's sought clarity from Knoblock on rulings prior to the jury trial, those rulings as explained by Knoblock impaired Ellis' case, according to Komorn.

One of the rulings was that Ellis would not be allowed protection under the Michigan Medical Marijuana Act and that jurors in the case would not be allowed to hear that Ellis was licensed with the state to be a licensed medical marijuana caregiver. Jurors also would have been prohibited from hearing testimony from anyone with a medical marijuana card that Ellis provided medical marijuana to.

Huron County Chief Assistant Prosecutor Dawn A. Schumacher argued Monday against the withdrawal of the plea. She said that Komorn was the one to "broker" the plea deal in the case and Ellis would be allowed the right to appeal his case.

Komorn disagreed with Schumacher saying the only deal he tried to broker on Nov. 1, the date set aside for jury trial, was "to show up and try the case."

When both sides reached a plea agreement on Nov. 1, the jury trial which was schedule to get under way, was instead canceled.

Another reason Komorn offered as to why he wanted to withdraw the plea was he felt he had limited time to discuss issues related to the plea deal and its terms with his client before the no contest plea was entered by the court.

Knoblock did not grant Komorn's motion Monday to withdraw the plea, instead he moved forward with sentencing Ellis.

Knoblock said in an earlier interview with the Tribune, the charge Ellis pleaded no contest to states a person who is a licensee shall not manufacture a controlled substance not authorized by his or her license or distribute, prescribe or dispense a controlled substance not authorized by his or her license.

"Basically, it says he went outside of the parameters of what he was licensed to do," explained Knoblock.

Ellis, who was licensed with the state to be a medical marijuana caregiver, was busted in September 2009 following a tip from the Oakland County Sheriff's Department.

"He wasn't charged by the prosecutor's office until 18 months later," Komorn said.

Despite the fact Ellis was a registered medical marijuana caregiver, police and prosecutors say Ellis, under the Medical Marijuana Act, had too many marijuana plants in his possession.

The Medical Marijuana Act allows a caregiver to possess 12 marijuana plants per cardholder. Ellis claims he was providing for four marijuana card holders.

Huron County Prosecutor Timothy J. Rutkowski said police found 85 plants in various stages in Ellis' rental home in Bad Axe.

Only 77 of the plants were tested by the Michigan State Police and were confirmed to be marijuana.

"Only 77 (plants) were tested because the state police require they must have leaves, stems and roots. Some of the plants in the process of being collected by police and sent to the lab, the root system was broken off. So those plants couldn't be tested," Rutkowski said.

Komorn disputed the prosecution's claims concerning the number of plants Ellis possessed, saying that plants without roots were counted by police and should not have been counted.

"There's more to this case than what Mr. Ellis would like people to believe," said Rutkowski about Ellis' claim he was only growing medical marijuana for his ill wife and three other cardholders.

Rutkowski said Monday records indicate high utility usage at the Bad Axe home rented by Ellis, dating back to 2007 before Michigan passed the Medical Marijuana Act.

As for Ellis, he said in an earlier interview with the Tribune that he took the plea deal because he felt "backed into a corner" and unable to defend himself at trial when he learned that witnesses his attorney planned to call to testify at the jury trial would not be allowed.

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