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Trial date nears in BA marijuana case

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BAD AXE — On Tuesday, a jury will begin to hear testimony in the case against a Livonia man who in 2009 was growing marijuana at a Bad Axe home. What jurors may not get a chance to hear, due to a ruling by the Huron County Circuit Court, is that the Livonia man was registered with the state under the Michigan Medical Marihuana Act (MMMA).

Huron County prosecutors charged Jeffrey Ellis with manufacturing marijuana following a raid on the home by the Bad Axe Police Department in September 2009.

Ellis hasn't denied growing marijuana. In fact, he openly acknowledges he was growing medical marijuana for his ill wife and others with illnesses as a registered caregiver. Both Ellis and his Southfield attorney, Michael Komorn, have argued that Ellis is immune to arrest and prosecution under the act.

All sides in the case gathered earlier this week in circuit court to finalize a few details as the trial date nears. One matter up for discussion Monday afternoon was a ruling by Huron County Circuit Court Judge M. Richard Knoblock, who granted a motion filed by Chief Assistant Prosecutor Dawn A. Schumacher that will prohibit Ellis from telling the jury he was a caregiver under the MMMA.

Schumacher claims that Ellis isn't allowed to use the MMMA as his defense at trial since he allegedly violated the act by having too many marijuana plants in his growing operation at the time of the bust. Schumacher also claims he wasn't in compliance when he failed to have a lock on the door to the growing area in the home.

"These claims are crazy," said Ellis, who said when police confiscated the marijuana plants they collected clippings that he would use to start plants, and that those clippings were then counted and shouldn't have been.

When the clippings were counted as plants by police, they exceeded the number of allowed plants he could have. As for the prosecution's claim that the area where the plants were being raised was not locked and secure, Ellis also disputes that allegation.

Knoblock ruled that based on the evidence presented during a hearing earlier this month regarding the clippings and lock on the door, Ellis is not entitled to raise the Medical Marijuana defense because he was not in compliance with the act.

"He didn't comply with the law," said Knoblock, who added if he would have been in compliance he could use medical marijuana as his defense.

Komorn said he feels Knoblock's ruling infringes upon his client's constitutional right to present a

defense in the case and that dancing around the issue at trial that Ellis was registered with the state as a caregiver “creates a scenario where you’re gonna be lying to the jury.”

Komorn also expressed to Knoblock a number of issues he’s had with how the case has been handled so far. He said the prosecution had the case for two years before moving forward with charges against Ellis.

“The charge originated in 2009 and there are no charges until 2011. They had all the evidence in their possession,” said Komorn. “We’ve been dealing with disadvantage after disadvantage regarding the delay.”

As both sides attempted to gain some clarity about what would be allowed to be presented to the jury at trial, Knoblock said he will not allow evidence such as medical marijuana cards, but that Ellis could testify that he thought he was growing the marijuana under the Medical Marijuana Law.

Ellis currently stands mute to the charge, which stems from a bust at a home on West Huron Avenue in Bad Axe that Ellis, his wife (now deceased) and his brother-in-law rented. The investigation of Ellis was a result of an anonymous tip given to the Bad Axe Police by the Oakland County Sheriff’s Department in August 2009.

A lengthy investigation followed, and in April 2010, Bad Axe police filed a warrant request seeking charges against Ellis. However, charges weren’t officially filed by the prosecutor’s office until nearly a year later.

The maximum penalty for the manufacturing of marijuana is four years in prison and/or fines up to \$20,000.

Michigan voters approved the Michigan Medical Marijuana Act in November 2008. The law allows for patients with a “debilitating medical condition” to use medical marijuana and for patients’ primary caregivers to assist with the use, including charging a reasonable fee for their services.

Both patients and caregivers must go through a registration process with the state’s Bureau of Health Professions, which according to its website, has issued more than 105,000 registration cards since the program started.

<http://www.michigansthumb.com/articles/2011/10/28/news/police - courts/doc4eaaadfc27023216314774.pt>