

UPDATED Medical marijuana case against Clarkston man dismissed in Genesee County

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The defense attorney involved in a dismissed medical marijuana case in Genesee County said the drug enforcement task force raiding medical marijuana patients are being “overly aggressive.”

“The way police are doing investigations needs to change,” said Michael Komorn of Southfield, attorney for Chason William-Gregory Pointer of Clarkston.

Pointer had been charged with unlawful manufacture of marijuana contrary to the Medical Marijuana Act. His case was dismissed last week in Genesee Circuit Court.

According to Komorn, the case began when Pointer, a medical marijuana patient, was robbed of his medical marijuana in a Clarkston restaurant parking lot on Oct. 26, 2009. Pointer reported the incident to the police, and Komorn said his client cooperated with the robbery investigation, which resulted in four people being arrested and charged with armed robberies and gun charges.

Then Pointer’s barn in Flint Township, located in Genesee County, was raided by the NET team.

Komorn said of the case, “An interesting twist to all of this was that the entire witness list for the prosecutor was the Oakland County Narcotics Enforcement Team (NET), yet the venue for the trial was Genesee County.”

Judge Geoffrey Neithercut, with Genesee County Circuit Court, dismissed the case against Pointer, who had a state medical marijuana card, on Jan. 14, saying the prosecutors failed to show evidence that Pointer had more than 2.5 ounces of usable marijuana.

The court’s opinion indicated that instead of presenting the marijuana in its “processed and usable form, the prosecutor brought in a very large quantity of unprocessed marijuana well in excess of 2.5 ounces, and said a jury could infer a percentage of usable material.”

Neithercut said, “There was no need of the jury to infer the weight of usable (marijuana). The prosecutor and law enforcement had the unprocessed marijuana and could have processed it down to a useable form ... and presented that as evidence.”

He continued, “(The) prosecutor made a tactical decision to sway the jury with large bags of unprocessed and legally meaningless marijuana refuse instead.”

Komorn said, “The judge looked at this case from the patient’s perspective,” he said.

“Stems, stalks and seeds are not usable.”

Komorn said he believes the case points out how the current medical marijuana environment is “confusing for law enforcement and patients, but that the fault shouldn,t be on the patients.”