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Medical marijuana battle rages in Susanville

By Sam Williams
News Editor

Local medical marijuana grower Timothy Ziegler, 47, insists he's doing nothing wrong by asserting his right to grow and distribute medical marijuana - despite firm resistance from Lassen County's law enforcement and government communities.

Ziegler claims he has the legal right to grow and distribute medical marijuana under California law, specifically, Proposition 215, the Compassionate Use Act, passed by California voters in 1996 - regardless of what local leaders have to say about it.

That view, and the whole medical marijuana issue, has led him into conflict with the Lassen County Narcotics Task Force, the Lassen County District Attorney's Office, the Susanville Police Department, the Susanville City Council, the Lassen County Sheriff's Department and the Lassen County Board of Supervisors. And the battle continues today.

Even though the Compassionate Use Act provides that "patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction," local officials

say they have problems supporting a state law that violates federal statutes. Some also say they have moral concerns about the apparent sanctioning of any kind of drug use.

Ziegler's troubles in Lassen County began when the task force arrested him in September 2004 for an outdoor grow of approximately 100 plants. Officers also seized several bins of processed marijuana. Ziegler claimed it was all medicine - medical marijuana. The task force and the district attorney disagreed, and Ziegler faced felony marijuana cultivation charges in Lassen Superior Court.

After two years of legal wrangling, on May 19, 2006, Lassen County Superior Court Judge Stephen Bradbury ruled Ziegler's public defender had shown Ziegler qualified as a caregiver under the Compassionate Use Act, putting the prosecution's case in jeopardy. Bradbury said the issue was one of law, not whether anyone agreed with patients growing and using marijuana.

After Bradbury's ruling, Lassen County District Attorney Bob Burns referred the matter to federal authorities for possible prosecution. There is no medical marijuana defense under federal law, so Ziegler could face federal drug charges should the appropriate authorities decide to pursue the case against him.

The U.S. Supreme Court complicated the medical marijuana issue on June 6,

2005, when the court ruled the federal government could prosecute people who use their own homegrown medical marijuana - expanding a decision that distributors of medical marijuana could be tried in federal courts.

Dispensary

While he was still battling the state marijuana cultivation charges, Ziegler sought to open a medical marijuana dispensary in a Main Street storefront in Susanville. The city's response was swift and negative.

Based on a recommendation by former Police Chief Chris Gallagher, on July 20, 2005, the City Council unanimously passed Ordinance 05-0919 - banning marijuana dispensaries within the city limits.

The purpose and intent of the ordinance is to "promote the health, safety, morals and general welfare of the residents and businesses within the city."

Gallagher told the council, at its July 6, 2005 meeting, "I am not trying to deter folks who can have marijuana for medicine, but I want to keep storefront facilities from the city that could attract a nuisance or criminal element."

The former chief said his request stemmed from "some entrepreneurial types (who) have used the situation to spawn commercial endeavors to distribute marijuana to those who qualify under the Compassionate Use Act of 1996."

City Attorney Kathleen Lazard told the council in e-group communications with other city attorneys there has been a lot of discussion about the Supreme Court's decision. She said the city issued a permit for a dispensary, it could be violating federal law.

On Tuesday, May 16, 2006, local residents Ziegler and Robin Rust and an advocacy group, Americans for Safe Access, withdrew a lawsuit charging the city's ban on medical marijuana dispensaries illegally restricted the rights of patients and their doctors.

"The city will continue to enforce its ordinance prohibiting medical marijuana dispensaries and maintain a safe community for our residents," the city said in a press release after the dismissal.

In December 2005, the Lassen County Supervisors took a wait-and-see position when asked to approve the issuance of medical marijuana identification cards.

The medical marijuana identification card program is "nothing more than another scheme from the enemy within to destroy this society," said Supervisor Bob Pyle. "I will not support something illegal under federal law," adding he is against the whole program and won't vote for it.

"I will not be supporting the use of marijuana," Pyle said.

Pyle was perhaps the most straightforward, but every supervisor expressed doubts about the program. Taking no action, the

supervisors agreed to wait and see how other counties handle the legal requirement that each county approve the program and set up an application process.

San Diego County - joined by plaintiffs, San Bernardino and Merced counties - has forced the issue into San Diego Superior Court. The case should be heard this month. The counties hope to overturn the state's law rather than implement it.

Since California's Compassionate Use Act was passed in 1996, 10 other states - Alaska, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington - have passed laws protecting qualified patients from prosecution.

Last week, Nevada voters rejected a bill to permit the manufacture, distribution, and sale of marijuana to adults aged 21 and older. South Dakota voters rejected a medical marijuana bill and Colorado voters rejected a bill allowing possession of less than an ounce of marijuana.

Last week California voters approved marijuana friendly bills in Albany, Santa Barbara, Santa Cruz and Santa Monica.

Across the country last week, voters approved marijuana friendly bills in Missoula County, Mont., Eureka Springs, Ark., and four representative districts in Massachusetts.

California's law allows people suffering from AIDS, cancer, anorexia, chronic pain, arthritis and migraine and "any

other illness for which marijuana provides relief" to grow or possess small amounts of marijuana with a doctor's recommendation.