

LEX Scholarship Question

Thomas Marin suffers from Multiple Sclerosis (MS), which is a progressive autoimmune disease that affects the brain and spinal cord. People who have MS suffer from damage to the myelin sheath, the protective covering that surrounds nerve cells. Symptoms vary, because the location and severity of each attack can be different. Episodes can last for days, weeks, or months, and generally alternate with periods of reduced or no symptoms. Because the nerves in any part of the brain or spinal cord may be damaged, patients with multiple sclerosis can have symptoms in many parts of the body.

Thomas Marin suffers from pain and spasticity associated with MS, and grows and smokes marijuana to help alleviate these symptoms. Studies show varied results, but some do show that treatment with medical marijuana may reduce or alleviate MS's symptoms including spasticity, pain, ataxia, depression, and anxiety, according to clinical trials and case studies on the use of medicinal marijuana by Multiple Sclerosis patients. Medical marijuana may even slow neurodegeneration associated with MS. Mr. Marin lives in Hopper County in a state which allows and condones the production and ingestion of marijuana for approved medical purposes; Mr. Marin complies faithfully with his state's requirements in this regard. However, the Federal Controlled Substances Act (CSA) prohibits the production and consumption of marijuana absolutely. The CSA classifies marijuana as a Schedule I drug, which means it is illegal under all circumstances. Possessing even one joint of marijuana is a misdemeanor punishable by up to a year in prison and a \$1000 fine. A second possession conviction carries a mandatory sentence of 15 days. Moreover, the CSA says that possessing or growing even one plant is a felony punishable by up to five years in prison and a fine of up to \$250,000.

On October 10, 2012, agents of the federal Drug Enforcement Administration (DEA), entered Mr. Marin's property, seized his marijuana plants from his back yard, and destroyed them. They also arrested Mr. Marin for possession and attempt to distribute a Schedule I drug in violation of the CSA. Mr. Marin was convicted, and sentenced to two years in jail; he has appealed his conviction, contending that the federal agents exceeded their authority, and that application of the CSA to him in these circumstances violates his constitutional rights.

Please weigh the arguments on both sides here, and reach a conclusion about what should happen in Thomas Marin's case.