

Opinion: Attorneys don't appear to be telling the truth about pot laws

By Steve Kubby

Are California's four U.S. attorneys telling us the truth about federal marijuana laws? Here are quotes from the feds, as well as evidence to refute their allegations. Judge for yourself if these federal prosecutors are acting in a lawful manner:

"All marijuana cultivation and sales are illegal under Federal law."

Congress has recently allowed Washington, D.C., to legalize, not just decriminalize, medical marijuana, while denying California the same rights. As a result, the feds are engaging in raids, prosecutions and asset forfeiture against California dispensaries, despite being in compliance with state law, while allowing dispensaries in D.C. to operate legally and without any Federal threats or raids whatsoever. This directly violates our First Amendment right for our vote to be counted just as much as the vote in D.C. Furthermore this violates the equal protection clause of the Fourteenth Amendment.



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"Congress has determined that marijuana has no medical use within the United States."

Any claim by Congress that marijuana does not have legal medical use ended when Congress chose to allow Washington, D.C., to legalize the medical use of marijuana.

“Federal law trumps state law when it comes to the Controlled Substance Act.”

The U.S. Supreme Court has ruled in *Gonzales v. Oregon*, that the United States attorney general could not enforce the federal Controlled Substances Act against physicians who prescribed drugs, in compliance with Oregon state law, for the assisted suicide of the terminally ill. Furthermore, the U.S. Supreme Court has had three opportunities to declare the Compassionate Use Act unconstitutional yet they have refused to do so. Their legal decisions have clearly upheld that the People of California have every right to legalize the possession and cultivation of marijuana for medical purposes.

“The Constitution does not provide any right to use marijuana.”

The Ninth Amendment of the United States proclaims: “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.” In other words, the power and authority of the federal government cannot be used to prohibit our right to use or grow a natural healing herb.

“The U.S. attorneys have the right to ignore state law.”

Barring a decision by a court of competent jurisdiction, the U.S. attorneys are in direct violation of the California Constitution, which requires that any changes to a voter initiative must be submitted to the voters of the state and approved by them. Thus, no city attorney, nor city council, nor board of supervisors, nor sheriff, nor district attorney, nor legislature, nor attorney general, nor governor, nor U.S. attorney has the legal right to change the state’s medical marijuana law. Only the voters can change or modify this law. Thus, almost all of the U.S. attorney’s limits on medical marijuana are a direct violation of the state constitution.

“California is obligated by the supremacy clause to enforce

federal law over state law.”

Any such action by California police or agencies is a direct violation of the California Constitution. According to Article 3, Section 3.5 such actions are strictly forbidden:

An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:

(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional; (b) To declare a statute unconstitutional; (c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations.

“This is not what the people of California voted for when they passed Proposition 215.”

Actually, voters were admonished by police and prosecutors that passing Prop. 215 would result in full marijuana legalization. James P. Fox, president of the California District Attorneys Association solemnly warned voters, in the 1996 official ballot arguments opposing Prop. 215, “This initiative allows unlimited quantities of marijuana to be grown anywhere ... in backyards or near schoolyards without any regulation or restrictions.” Because this was the president of all the district attorneys in California and a publicly recognized authority on the law. Voters trusted his opinion and that this is how all the state district attorneys would interpret the new law, if approved by voters.

“The ‘unregulated free for all’ that has allowed marijuana growers and merchants to make fortunes must come to an end.”

The notion that California must crack down on medical marijuana and pass restrictive laws to reign in an out of control 'green rush' is pure government propaganda, intended to scare Californians into taking drastic measures that will only harm patients and further damage our economy.

Any further efforts to restrict medical marijuana must be viewed as the product of fear and intimidation, which will only result in more arrests and incarcerations of sick, disabled and dying patients. Appeasing bullies doesn't work in the schoolyard and it certainly won't work with the feds.

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