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Courts Owe Common Sense on Cannabis Deadline

A Newspaper Column by Evan Barrett

June 29, 2016

My columns try to call for a common sense perspective in our government and politics. While I approach things from a progressive or liberal bent, in my comments I try to bring facts and reason to bear. In that vein, I believe the impact of Montana's current medical marijuana legal situation on over 12,000 patients calls for the immediate application of some common sense from our state courts.

First, a brief disclaimer: my daughter and son-in-law own and operate a small medical marijuana dispensary that provides specific help to nearly 100 Montanans - just 7/10th of one percent of the 13,640 patients statewide. She tells me that each of their patients has individualized medical needs that are met by use of medical marijuana in specific forms designed to address their individual problems, ranging from glaucoma to rheumatoid arthritis, cancer to epilepsy, Crohn's disease to AIDS.

The US Supreme Court on Monday said that it would not take up a legal appeal of the Montana legal action, just as it does not consider 97-99% of the appeals sent its way. That US Supreme Court rejection throws the legal ball totally back into Montana's Court System, where some good government common sense needs to be applied.

Earlier this year data from the state Department of Public Health and Human Services showed 13,640 as the statewide number of medical marijuana patients, ranging from 18 to over 90 years old, and an average patient age of 47 years from nearly every county. Those patients were served by 471 medical cannabis providers, ranging from 1 to over 700 patients. Therein lies the rub and the common sense challenge.

The February 25, 2016 Montana Supreme Court decision restricted each provider/dispensary to three patients, effective August 31st. The most patients the 471 providers in Montana could provide medication to would then be 1413 patients, leaving 12,227 patients without a provider. Most likely, many providers will have to close down. What business or medical provider could operate with just three legislatively-mandated patients? So the number of unprotected Montanans will likely be even higher - more than 12,227 Montanans left hanging, swaying in the wind, come August 31.

That might be "the way it is" as they say, but there is an intervening fact. Just 70 days later all Montanans will decide at the ballot box whether or not to reenact a new and improved responsible and accountable administration of our medical marijuana program. Initiative 182 turned in 42,156 signatures to Clerk & Records by the deadline, way more than the 24,175 signatures needed and likely to qualify in 40-50 legislative districts (34 districts required). Based upon history (62% voted FOR medical marijuana in 2004) and current strong current support, it's likely that every one of those 12,000 plus Montanans ruthlessly thrown off their medicines August 31 will be able to sign up come November.

But, life disruption to what purpose? That's the common sense challenge. Does this life-altering situation for 12,000 Montanans – jolting them in and out of their important medical regimens for 70-90 days – seem to be the best way to handle this technical deadline issue. After all, the implementation of this draconian statute has been in limbo for more than 5 years. Delaying it another 70-90 days to avoid serious disruption in the lives of over 12,000 Montanans seems to be a "no-brainer."

Our courts need to enforce the law, but our system has room for the humane administration of justice. District Judge James Reynolds, who now has the case, or the Supreme Court itself, should do the

common sense and humane thing and delay the deadline until after the election. Attorney General Tim Fox ought to also apply common sense and compassion not further appeal anything. In fact, he should remove his objection to the current "post-election date" appeal and show some respect and concern for the 12,000 Montanans who need his help.

In this case, justice delayed will not be justice denied. It will be the demonstration of compassion and common sense by elected officials who ought to know what's right. There is no reason to subject 12,000 of our fellow Montanans with cancer and other debilitating diseases to anything but common sense.

-- Evan Barrett, who lives on the Butte Hill, recently retired after 47 years at the top level of Montana government, politics, economic development and education.

(700 words in body)